

D R A F T

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17227
November 20, 2009**

R E S O L U T I O N

Resolution T-17227 Approval of Funding for the Highway 36 Humboldt-Trinity Counties Project of IP Networks, Inc., (U-6362-C) from California Advanced Services Fund (CASF) Amounting to \$4,212,982

Summary

This Resolution adopts funding for the Highway 36 Humboldt-Trinity Counties project of IP Networks, Inc., (IPN) amounting to \$4,212,982 from the California Advanced Services Fund (CASF). The amount granted represents 40% of the total project cost of this underserved area application filed in accordance with Resolution T-17143.

Background

On December 20, 2007, the Commission approved Decision (D.) 07-12-054 which established the two-year CASF program to provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California.¹ Resolution T-17143, approved on June 12, 2008, adopted the application requirements, scoring criteria for the award of funds, and a prescribed timeline for other filings and notifications including a projected Commission Meeting date for final approval of award(s).

On July 9, 2009, the Commission issued D.09-07-020 (Decision) approving a new CASF schedule and plan for an additional round of broadband projects that would complement broadband grants awarded under the federal government's American Recovery and

¹ SB 1193 (Chapter 393, Stats. of 2008) established the California Advanced Services Fund as a new public purpose program.

Reinvestment Act (ARRA).² While retaining the 40% matching grant process, the Commission in that Decision authorized providers an option of seeking a 10% grant from the CASF concurrent with efforts to seek an 80% grant from the ARRA fund. Since the program was launched, the Commission has received project proposals that sought CASF funding for unserved and underserved areas. As of September 24, 2009, the Commission has approved 28 CASF grants totaling \$ 12.6 million in funds awarded. Approved grants for unserved areas amount to \$ 11.6 million for 16 projects while underserved area grants amount to \$1 million for 12 projects.

IPN submitted the Highway 36 Humboldt-Trinity Counties application on July 17, 2009. This project would provide 121 miles of fiber to serve underserved (dial-up) communities along the Highway 36 corridor from Wildwood through Mad River and Ruth to Bridgeville. IPN seeks a CASF grant for \$4,212,982, equal to 40% of the project's costs, and does not plan to seek federal ARRA funds for this proposed project.

Notice/Protests

The Census Block Group (CBG) list for the Highway 36 Humboldt-Trinity Counties project appeared by county on the Commission's CASF website page under "UNDERSERVED areas proposed to be served as of July 17, 2009: Census Block Groups (CBGs)." One challenge was filed with the Communications Division (CD) for a single CBG and, through verification of information, the CBG was determined to be clear of the challenge.

Discussion

This Resolution adopts a total of \$4,212,982 in CASF funding support for the Highway 36 Humboldt-Trinity Counties project. The project is described in detail in Appendix A.

For qualification purposes under the CASF program, underserved areas are defined as areas where broadband is available but no facilities-based provider offers service at speeds of at least 3 Mbps download and 1 Mbps upload. CD reviewed this project's eligibility through the analysis of the required data submitted. These data include, but are not limited to: proof of Certificate of Public Convenience and Necessity (CPCN) registration; descriptions of current and proposed broadband infrastructure; Geographic Information System (GIS) formatted Shapefiles mapping the subject areas; assertion that the area is underserved; potential subscriber size and household incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant. In addition, CD reviewed the Shapefiles submitted which mapped the broadband deployment proposed using United States 2000 Census data, the January, 2008, Broadband Task Force Report (BBTF) including its on-line maps, and the revised July 9, 2009, California Broadband Task Force (CBTF) map, among others.

² The American Recovery and Reinvestment Act appropriates \$7.2 billion for grants and loans to support broadband deployment on a national level. ARRA offers a unique and ground breaking opportunity for California to partner with the federal government and other state agencies in advancing the goal of bridging the digital divide.

Comparisons of submitted maps to that of the BBTF and CBTF verified the existence or non-existence of broadband service as well as speeds in areas where broadband services are available.

CD verified this project and, when necessary, requested additional information and/or meetings with the applicant to clarify its project proposal. Of the 19 CBGs in this project, one was formally challenged. After review of the challenger's existing service area and the CBTF maps, and verifying with IPN, the CBG was determined to be clear of the challenge. The challenger's service area exists in the east of the CBG and IPN's proposal of service is planned in a small, western portion of the CBG. CD determined that the CBGs covering the proposed area are qualified as underserved as defined in Resolution T-17143

IPN is a telecommunications transport carrier headquartered in San Francisco. It currently provides transport solutions over its networks that directly or indirectly enable data and voice services to residential customers, small/medium/large enterprises, and local and federal governmental agencies. IPN indicates that it is committed to deploying fiber optic-based last mile networks that bypass the incumbent local carriers. It operates approximately 400 route miles of last mile access networks all of which are interconnected to its 290-mile regional fiber backbone encompassing San Francisco, Peninsula, Silicon Valley, East Bay, and Metro Sacramento. Based on its long-standing relationships with multiple utilities and asset owners, IPN has been able to develop across a large geographic area an extensive legacy-free service delivery platform via its Ethernet architecture which allows for greater system design and innovation, flexibility, reliability, and accessibility to perform network upgrades. As an example, in this Highway 36 project, IPN will partner with 101 Netlink, the last mile provider, to deploy broadband using PG&E infrastructure including transmission towers to connect these targeted underserved Sonoma County communities.

By leveraging the PG&E network within the Redwood Coast Connect project region, IPN plans to bring fiber connectivity from the Cottonwood sub-station across approximately 121 miles into downtown Eureka. The 72-count fiber cable system, optimized for long distances and capable of withstanding ice weight and other weather conditions, will connect with existing PG&E overhead transmission infrastructure. In partnership with 101 Netlink, a California North Coast wireless high speed internet provider, the broadband network will connect to several underserved, dial-up communities along the Highway 36 corridor. Nineteen CBGs will receive at minimum speeds starting at 4 Mbps download and 1.5 Mbps upload. 101 Netlink commits to a 3-year fixed price to residential customers of \$55 per month for the first 5 gigabytes delivered and \$10 per month more for each additional 4 gigabytes.

The area to be served spans 218 square miles and the project will deliver service to 527 rural households. The region is comprised of rugged terrain and, consequently, this proposed area is sparsely populated. A recent study completed by the Redwood Coast Rural Action

community network found that residential demand for broadband exists in the area and recommended the need for public support to acquire residential broadband connectivity. This need was furthered by the geographical obstacles that make normal commercial efforts prohibitive.³ The total cost of the Highway 36 Humboldt-Trinity Counties project is \$10,532,455 with the 40% CASF subsidy amounting to \$4,212,982. In light of the fact that no other applicant has submitted a proposal to deploy broadband in this specific area, the Highway 36 Humboldt-Trinity Counties project is recommended for approval and award of CASF funding.

This project is subject to the California Environmental Quality Act (CEQA) and IPN must receive approval prior to receiving CASF fund reimbursement. IPN cannot conduct ground breaking activities until the Commission's CEQA review is complete. IPN agrees to identify any other special permits required and will provide those with a cross reference to the government agencies from which the permits will be or have been required for this project in compliance with all other guidelines, requirements, and conditions associated with the granting of CASF funds as specified in T-17143 including the submission of FCC Form 477. IPN will notify the Director of CD of the disposition of its CEQA review.

The Application Requirements and Guidelines on the awarding of CASF Funds⁴ provide that the execution of a Performance Bond is not required if 60% of the total project costs come from the applicant's capital budget and is not obtained from outside financing sources. In its application, IPN indicated that its match of the 60% of the total project costs will come from its existing capital budget as submitted in the company's financial documentation. However, we await receipt of a letter of credit from IPN certifying this claim. Therefore, a performance bond is not required under the CASF provided a letter of credit acceptable to CD is received supporting this applicant. Otherwise, IPN will be required to obtain a performance bond in accordance with the existing CASF funding rules.

Payments to CASF Recipients

Submission of invoices from and payments to IPN shall be made in accordance with Section IX of Appendix A of Resolution T-17143 and according to the guidelines and supporting documentation required in Resolution T-17143. Payment to IPN shall essentially follow the process adopted for funds created under Public Utilities Code §270. The following table describes the timeline for processing CASF payments.

³ See Redwood Coast Connect, January, 2009, [Report](http://redwoodcoastconnect.humboldt.edu/docs/RCC_Report_Final_04282009.pdf), http://redwoodcoastconnect.humboldt.edu/docs/RCC_Report_Final_04282009.pdf

⁴ Resolution T-17143

Event	Payment Cycle 1 (Day/Month)	Payment Cycle 2 (Day/Month)
Invoices due from IP Networks, Inc. to CD	5 th of Month 1	20 th of Month 1
Payment letters from CD to Information and Management Services Division (IMSD) ⁵	On 19 th of Month 1	On 4 th of Month 2
Invoices submitted from IMSD to State Controller's Office (SCO) for payments	20 th through 26 th of Month 1	5 th through 13 th of Month 2

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

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

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on October 19, 2009, informing a) all CASF applicants filing under D.09-07-020 and b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and will be available at this same website.

Conclusion

The Commission finds CD's recommended contingent CASF fund award for this underserved Highway 36 Humboldt-Trinity project as discussed in this resolution and summarized in Appendix A to be reasonable and consistent with Commission orders and, therefore, adopts such award. IPN's contingent funding is based on receiving CEQA review approval. If IPN is unable to obtain CEQA review approval and as a result will not build the Highway 36 Humboldt-Trinity project, then IP Networks, Inc. should notify the CD Director that this project will not be built so that CASF funds may be reallocated to other grants.

⁵ The above schedule is contingent on the CASF recipient submitting clear, complete, and error-free invoices to CD. Additional time to process payments may be necessary if CD finds problems with the submitted invoices.

Findings

1. The California Advanced Services Fund (CASF) was implemented by Decision (D.) 07-12-054. The CASF was established as a two-year program that will provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California, subject to the Commission's completion of review pursuant to the California Environmental Quality Act.
2. Resolution T-17143, approved on June 12, 2008, adopted the application requirements and scoring criteria for the award of funds, a prescribed timeline for other filings, and notifications including a projected Commission Meeting date for final approval of award(s).
3. On July 9, 2009, the Commission issued D.09-07-020 approving a new CASF schedule and plan for an additional round of broadband projects that would complement broadband grants awarded under the federal government's American Recovery and Reinvestment Act (ARRA). While retaining the 40% matching grant process, the Commission in this Decision authorized providers an option of seeking a 10% grant from the CASF concurrent with efforts to seek an 80% grant from the ARRA fund.
4. IP Networks, Inc. (U-6362-C) filed an application on July 17, 2009, seeking CASF funding for 40% of its project, or \$4,212,982.
5. Underserved areas are defined as areas where broadband are available but no facilities-based provider offers service at speeds of at least 3 Mbps download and 1 Mbps upload.
6. A list of census block groups (CBGs) appeared by county on the Commission's CASF website page under "UNDERSERVED areas proposed to be served as of July 17, 2009: Census Block Groups (CBGs)." The Communications Division (CD) proceeded with its independent review and analysis of this project area to verify that it was underserved as of the applicant's filing date.
7. CD reviewed the IP Networks, Inc. Highway 36 Humboldt-Trinity Counties project eligibility through the analysis of required data submitted. These data include, but are not limited to: proof of CPCN registration; descriptions of current and proposed broadband infrastructure; geographic information system (GIS) formatted Shapefiles mapping the subject areas; assertion that the area is underserved; potential subscriber size and household incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant.
8. Shapefiles, which mapped the broadband deployment, were reviewed by CD using sources including, but not limited to, the United States 2000 Census data, the January, 2008, Broadband Task Force Report, and the revised July 9, 2009, California Broadband Task Force (CBTF) map, among others. These maps helped to verify the existence or non-existence of broadband service areas and broadband speeds, where available.

9. CD verified this project and, when necessary, requested additional information and/or meetings with the applicant to clarify its project proposal. Of the 19 CBGs in this project, one was formally challenged. Subsequent review of the challenge revealed that IP Networks, Inc.'s proposed service area is not planned within the challenger's existing area. Therefore, CD determined that the CBGs covering the proposed area are qualified as underserved as defined in Resolution T-17143.
10. IP Networks, Inc. plans to install fiber from the Cottonwood sub-station across approximately 121 miles into downtown Eureka. The 72-count fiber cable system will connect with existing PG&E overhead transmission infrastructure. 101 Netlink, the last-mile broadband provider, will connect underserved, dial-up communities, along the Highway 36 corridor. Nineteen CBGs will receive at minimum speeds starting at 4 Mbps download and 1.5 Mbps upload.
11. The area to be served spans 218 square miles and the project will deliver service to 527 rural households. The region is comprised of rugged terrain and, consequently, this proposed area is sparsely populated.
12. A recent study found that residential demand for broadband exists in the area and recommended the need for public support to acquire residential broadband connectivity. This need was furthered by the geographical obstacles that make normal commercial efforts prohibitive.⁶
13. The total cost of the Highway 36 Humboldt-Trinity Counties project is \$10,532,455 with the 40% CASF subsidy amounting to \$4,212,982.
14. After its independent review and this singular proposal to deploy broadband in this specific area, CD determined the Highway 36 Humboldt-Trinity Counties project application for underserved areas covering 19 CBGs as eligible to receive funding under CASF.
15. The posting of a performance bond by IP Networks, Inc. is not required provided a letter of credit acceptable to CD is received supporting the applicant's claim to supply matching funds equal to 60% of the total cost of this project. Otherwise IP Networks, Inc. will be required to obtain a performance bond in accordance with the existing CASF funding rules.
16. This project is subject to the California Environmental Quality Act (CEQA) and IP Networks, Inc. must receive approval prior to receiving CASF fund reimbursement. IPN cannot conduct ground breaking activities until the Commission's CEQA review is complete.
17. IP Networks, Inc. should comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in Resolution T-17143 including the submission of FCC Form 477 and compliance with the CEQA, among others.

⁶ See Redwood Coast Connect, January, 2009, [Report](http://redwoodcoastconnect.humboldt.edu/docs/RCC_Report_Final_04282009.pdf), http://redwoodcoastconnect.humboldt.edu/docs/RCC_Report_Final_04282009.pdf

18. IP Networks, Inc. should notify the Director of the Communications Division of the disposition of its CEQA review.
19. A notice letter was emailed on October 19, 2009, informing a) all applicants filing for underserved areas and b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.
20. The Commission finds CD's recommendation of CASF award for the Highway 36 Humboldt-Trinity Counties project summarized in Appendix A of this Resolution to be reasonable and consistent with Commission orders and should be adopted.

THEREFORE, IT IS ORDERED that:

1. The California Advanced Services Fund shall award \$4,212,982 from the California Advanced Services Fund to IP Networks, Inc. for the Highway 36 Humboldt-Trinity Counties project for underserved areas as described in the Discussion section and summarized in Appendix A of this Resolution. The award is contingent on IP Networks, Inc. receiving California Environmental Quality Act review approval.
2. The posting of a performance bond by IP Networks, Inc. is not required provided a letter of credit acceptable to the Communications Division is received supporting the applicant's claim to supply matching funds equal to 60% of the total cost of this project. Otherwise IP Networks, Inc. will be required to obtain a performance bond in accordance with existing CASF funding rules.
3. IP Networks, Inc. shall comply with all guidelines, requirements and conditions associated with the CASF funds award as specified in Resolution T-17143 including the submission of FCC Form 477 and compliance with the California Environmental Quality Act, among others.
4. IP Networks, Inc. shall notify the Director of the Communications Division of the disposition of its CEQA review.
5. The program fund payment of \$4,212,982 for this Commission-approved underserved project shall be paid out of the CASF fund in accordance with the guidelines adopted in Resolution T-17143.
6. Payments to the CASF recipient shall be in accordance with Section IX of Appendix A of Resolution T-17143 and in accordance with the process defined in the "Payments to CASF Recipients" section of this Resolution.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 20, 2009. The following Commissioners approved it:

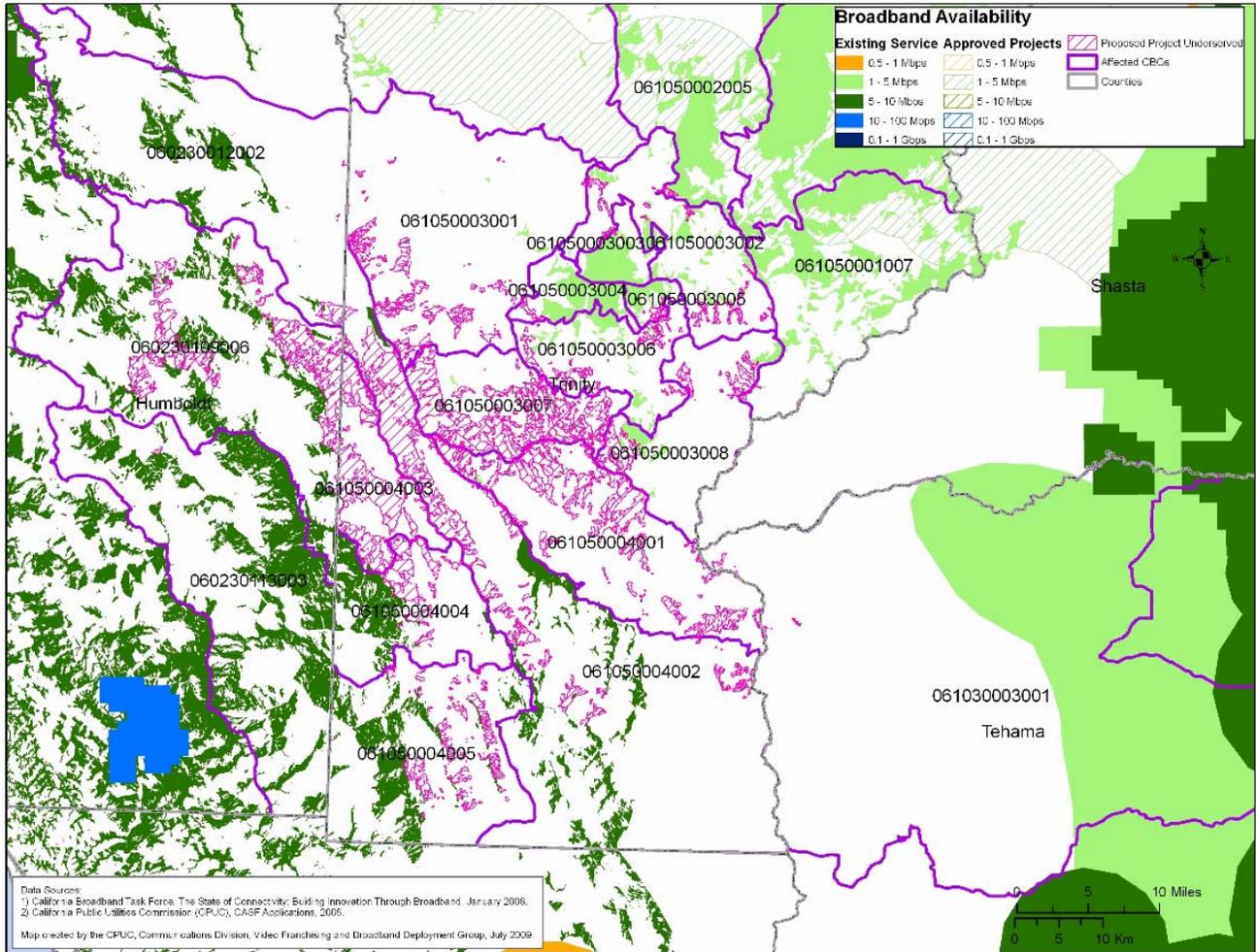
PAUL CLANON
Executive Director

APPENDIX A
Resolution T- 17227
IP Networks, Incorporated (U-6362-C)
Highway 36 Humboldt-Trinity Counties Key Information

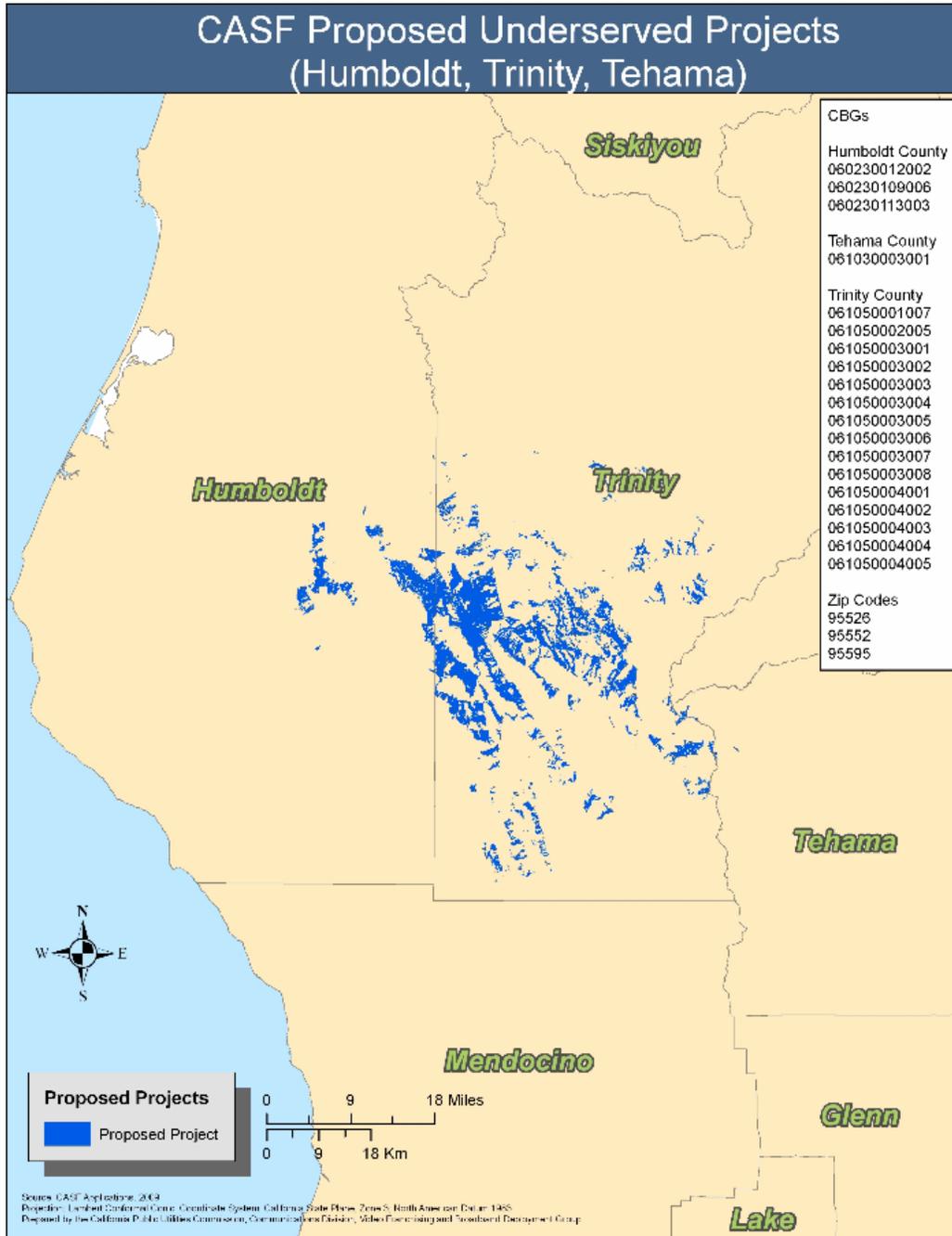
1	Project ID	IP Networks, Incorporated	
2	Project Name	Hwy 36 Humboldt-Trinity Counties Project	
3	Project Plan	Partnership with 101Netlink, to leverage PG&E assets, lay 121 miles of new fiber cable interconnecting with existing fiber network, and utilize microwave frequencies with point-to-multipoint fixed wireless technology to serve underserved (dial-up) communities along Highway 36 corridor from Wildwood to Bridgeville.	
4	Project Size (in square miles)	218	
5	Download speed	minimum 4.0 Mbps	
6	Upload speed	minimum 1.5 Mbps	
7	Location	Humboldt, Tehama, Trinity Counties	
a)	Community Name	Bridgeville	\$25,385
		Mad River, Dinsmore	\$24,583
		Ruth	\$27,711
b)	CBGs/Household Income	060230012002	
		060230109006	
		060230113003	
		061030003001	
		061050001007	
		061050002005	
		061050003001	
		061050003002	
		061050003003	
		061050003004	
		061050003005	
		061050003006	
		061050003007	
		061050003008	
		061050004001	
		061050004002	
		061050004003	
		061050004004	
		061050004005	
c)	ZIP Codes	95526	
		95552	
		95595	
8	Estimated Potential Subscriber Size		
a)	Households	527	
b)	Broadband Subscribers	408	
c)	Deployment Schedule (from Commission approval)	8 months + CEQA	

9	<i>Proposed Project Budget</i>		
a)	<i>Total</i>	\$10,532,455	
b)	<i>CASF (40%)</i>	\$4,212,982	
c)	<i>CIAC</i>	(n/a)	
d)	<i>Amount of CASF Funds Requested</i>	\$4,212,982	
e)	<i>Internally funded (60%)</i>	\$6,319,473	

APPENDIX A
Resolution T- 17227
IP Networks, Incorporated (U-6362-C)
Highway 36 Humboldt-Trinity Counties Project Shapefiles



APPENDIX A
Resolution T- 17227
IP Networks, Incorporated (U-6362-C)
Highway 36 Humboldt-Trinity Counties Statewide Map



END OF APPENDIX A