

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA

Resolution No. T-17525 Approval of funding for the grant application of Race Telecommunications, Inc. (U-7060-C), from the California Advanced Services Fund up to the amount of \$27,629,599 for the Gigafy Phelan underserved broadband project in San Bernardino County.

Draft Res. T-17525
(Served May 30, 2017)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES
ON DRAFT RESOLUTION T-17525**

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I. INTRODUCTION

Pursuant to Rule 14.5 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure, the Office of Ratepayer Advocates (ORA) submits these comments on Draft Resolution T-17525, approving funding of \$27,629,599 from the California Advanced Services Fund (CASF) for the Gigafy Phelan broadband project.

The Commission should ensure prudent use of ratepayer funds by appropriately prioritizing grant funding to deploy broadband to households that continue to be unserved/underserved. The Commission should leverage federal funding whenever possible in order to help bridge the digital divide and optimize the use of CASF program funds by investing in areas that are unserved and underserved. As such, the Commission should consider the Federal Communications Commission (FCC) Connect America Fund Phase II (CAF II) funding that is already bringing broadband service to households in the proposed project area. The Commission should remove households that will be served as a result of Frontier's FCC CAF II build-out in the area and reduce the current proposed CASF grant amount accordingly as further discussed below.

II. DISCUSSION

A. The Commission Should Consider Broadband Deployment Resulting from CAF II Funding and Commitments Made in Decision (D.) 15-12-005.

Draft Resolution T-17525 approves grant funding of approximately \$27.6 million collected from ratepayer surcharges, but this Resolution does not account for CAF II funding that Frontier has accepted in the proposed project area (see Attachment A).¹ The Commission should consider the CAF II funding because, like CASF funding, these funds assist companies in making network investments to further deploy broadband and bridge the digital divide.² The Commission published a map illustrating the areas in

¹ Attachment A provides images of two maps of the Phelan area for comparison purposes. The first shows the areas for which CAF II funding has been accepted and the second shows the proposed project area that will be subsidized by CASF.

² The FCC's CAF program is set up to "expand access to voice and broadband services for areas where they are unavailable." <https://www.fcc.gov/consumers/guides/connect-america-fund-phase-ii-faqs>

California where providers accepted CAF II funding in October 2015. (See Attachment B). Furthermore, in December 2015, the Commission issued D.15-12-005, which required Frontier to obtain CAF II funding³ to upgrade broadband service in its service territory, and approved a settlement agreement in which Frontier agreed to deploy or augment broadband services to an additional 400,000 California households at speeds of 25 Mbps download and 3 Mbps upload (25/3) by December 2022, 100,000 households at speeds of 10 Mbps download and 1 Mbps upload (10/1) by December 2020, and 250,000 households at speeds of 6 Mbps download and 1.5 Mbps upload (6/1.5) by December 2022.⁴

Race Telecommunications, Inc. (Race) submitted its initial application for the Gigafy Phelan project on August 10, 2015, but subsequently re-submitted its application twice, once in January 2016 and again in January 2017.⁵ The Commission's review of the subsequent applications should have considered the impact of CAF II funding in the project area and the commitments Frontier agreed to in D.15-12-005 because these commitments have been publically available since 2015. Moreover, as the applicant, Race has the responsibility of considering, in its adoption plan, the build-out resulting from CAF II funding in the project area. Thus, as further discussed below, Race should have considered the impact that CAF II funded build-out would have on the project's take rate and how the CAF II funded build-out would affect the project's financial success.

Frontier has notified the Commission that it has and continues to deploy broadband to numerous households in the proposed project area.⁶ Frontier claims that it will provide speeds of 6/1.5 Mbps to 7,181 of the estimated 7,606 households in the project area. As part of D.15-12-005, Frontier is required to provide progress reports to the Commission that identify the number of households, by census block, where it will

³ CPUC, D.15-12-005, Page 82, Ordering Paragraph 12. This Decision approved the transfer of control of Verizon California Inc. and other Verizon subsidiaries in California to Frontier.

⁴ CPUC, D.15-12-005, Appendix F, Exhibit 1 "Settlement Agreement," Page 6.

⁵ Attachment C provides a timeline of events tracing Race's multiple applications for Gigafy Phelan and events relating to Frontier and its acceptance of CAF II funding and its other commitments to the Commission.

⁶ Frontier Comments Served to CASF Service List on May 2, 2017 in response to Resolution T-17525 issued on April 7, 2017.

provide upgraded broadband speeds. Prior to approving Race's application, the Commission should request this information from Frontier to ensure that the 7,181 households in the project area will have broadband availability at 6/1.5 Mbps. The Commission should not spend limited state funds in an area that has already received federal funds and private investment to improve broadband availability to served levels. Instead, the Commission should target finite ratepayer funded CASF program funds to areas that remain unserved/underserved. Using ratepayer funds to support broadband service in areas that remain unserved/underserved would ensure that limited CASF program funds are expended prudently. For example, the Commission should consider granting CASF program funds to households in areas outside of existing CAF II funding commitments and outside of existing Commission directives to build-out broadband service at served speeds or higher. Applicants like Race can request CASF funding to serve these areas by prorating out (i.e. removing) the cost of building through areas that are already served.

B. The Commission Should Remove Households from the Proposed Project that will be Served by Frontier as a Result of CAF II Funding and Commitments Pursuant to D.15-12-005.

In its comments to Proposed Resolution T-17525, Frontier claims it has been upgrading service to numerous households in the proposed project area and further explains in its challenge to the project that 7,181 households will receive broadband availability at served speeds of 6/1.5 Mbps. Of these 7,181 households, 4,901 will have broadband availability at speeds of 10/1 Mbps (but will have option to choose broadband speeds of 6/1.5 Mbps), and 2,280 households will have broadband availability at speeds ranging from 10-100 Mbps download and upload speeds greater than 1.5 Mbps.⁷ The Commission should consider this information and should remove any households that have or will receive upgrades from Frontier in the project area as a result of CAF II funding and commitments made in D.15-12-005. As required by CASF rules, served

⁷ Frontier's Challenge to Gigafly Phelan Project sent to Communications Division May 17, 2017.

areas are to be removed from the proposed project budget.⁸ This means that if a project involves building through an area that is served, the project's budget cannot include the cost of building through the served area. Therefore, the applicant must prorate (i.e. remove) the cost of building through served areas.

Furthermore, the Commission should not automatically dismiss broadband availability speeds of 10/1Mbps solely because it is 0.5 Mbps slower than CASF adopted minimum speeds of 6/1.5 Mbps without first conducting a thorough review and discussing with the broadband provider the possibility of increasing broadband speeds. The Commission should not allocate ratepayer funds to an area already benefitting from federally funded upgrades to broadband infrastructure while other California communities have not benefitted from any investments to improve their broadband access.

C. The Commission Should Consider the Impact on the Proposed Project's Take Rate Due to Broadband Deployment Resulting from CAF II in the Proposed Project Area.

On May 30, 2017, this Draft Resolution was re-served due to updates reflecting the correct number of households that will receive broadband service from this proposed project. This correction raises the question of whether other application elements, such as the proposed project's adoption plan and estimated take rate, are accurate. The previous Draft Resolution, served April 7, 2017, also relied on the erroneous household count of 8,361 to calculate a take rate of 68% over five years. This take rate, however, has not been updated to account for the updated household count of 7,606. Consequently, it is unclear what the revised take rate would be for those 7,606 households affected by the proposed project.

Furthermore, Race's adoption plan does not reflect the impact of Frontier's build-out on the take rate. The maps provided in Attachment A show that the proposed project area includes areas for which Frontier has already claimed CAF II funds. The

⁸ Resolution T-17443 Implementation of New Timelines for California Advanced Services Fund Applicants at Appendix 2, pg. 3.

Commission should consider how Frontier’s build-out, resulting from CAF II funding and Frontier’s own investment, would impact the take rate of the proposed project which ultimately impacts the pro-forma projections of the project and its financial viability. Frontier’s build-out could seriously impact the success of the Gigafy Phelan project and consequently, its financial viability. It is possible that Race’s take rate could be significantly less than its projected 68% over five years because households choose to remain with Frontier. This would negatively impact Race’s revenue, making it difficult for Race to sustain service in the proposed project area. The Commission should not approve a project where it has not considered the effect of CAF II funding or the effect of reducing the number of households within the project area on the adoption plan, the take rate, and the overall financial feasibility of the project.

III. CONCLUSION

The Commission must reevaluate the Gigafy Phelan Project based on publically known information, such as Frontier’s acceptance of the FCC’s CAF II funding in 2015, and remove CASF funding for households that Frontier will serve using those federal funds. The Commission should not authorize CASF funds to provide service to households that are already served; rather, it should only fund remaining unserved/underserved households. The Commission must also consider the financial viability of the Gigafy Phelan project which plans to provide service to an area where another provider has already begun upgrading broadband service and as a result, is

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providing served speeds in the area. Finally, the Commission must be prudent and strategic in its use of the limited CASF funds in reaching households that, time after time, remain unserved/underserved.

Respectfully submitted,

/s/ CANDACE CHOE
CANDACE CHOE

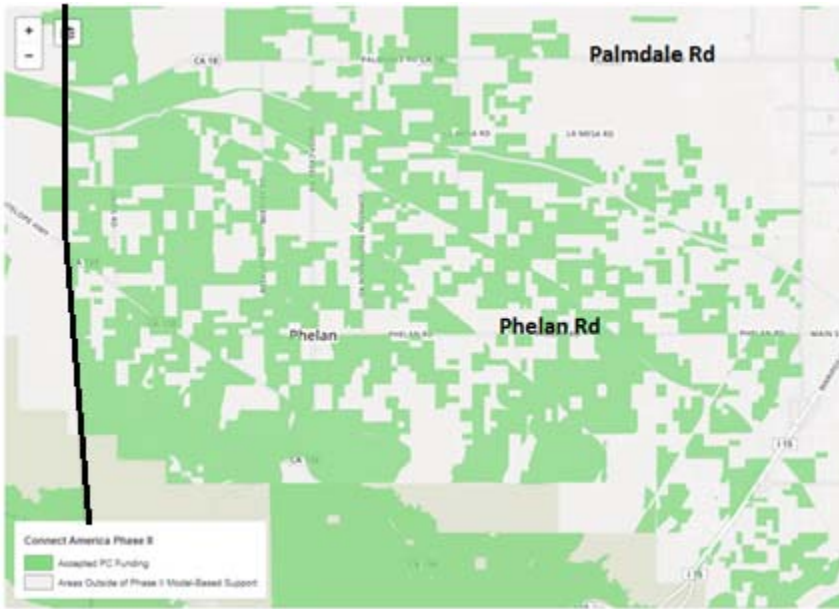
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June 19, 2017

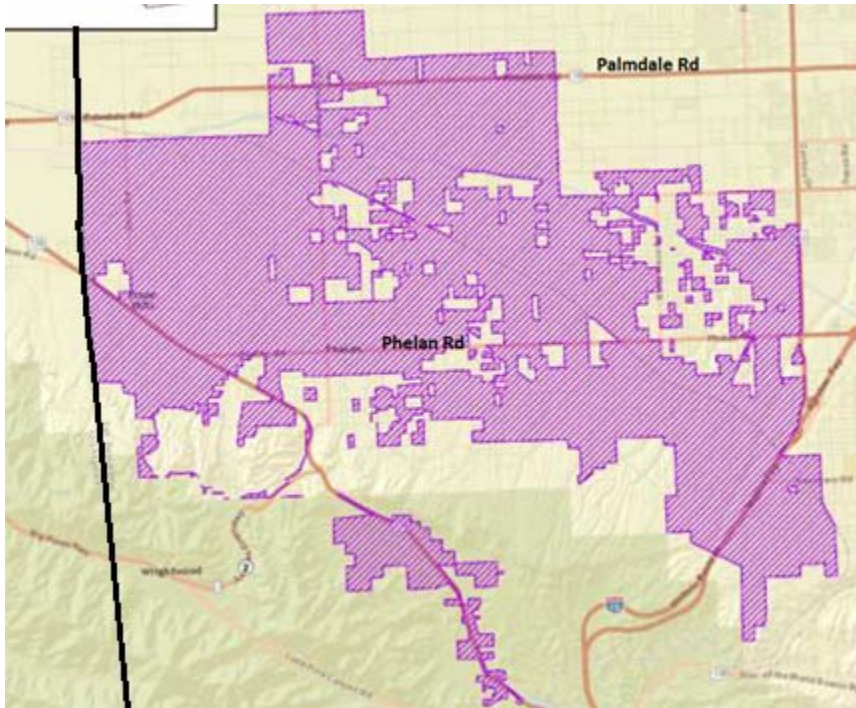
Attachment A: FCC’s Connect America Fund Phase II Accepted Areas Map.

The green on the map represents areas for which CAF II funding was accepted by carriers. Specifically, this map illustrates the CAF II funding accepted throughout the proposed project area by Frontier. This image was generated on June 13, 2017 from the FCC’s Accepted Areas Map, which can be accessed here: <https://www.fcc.gov/reports-research/maps/caf-2-accepted-map/>.



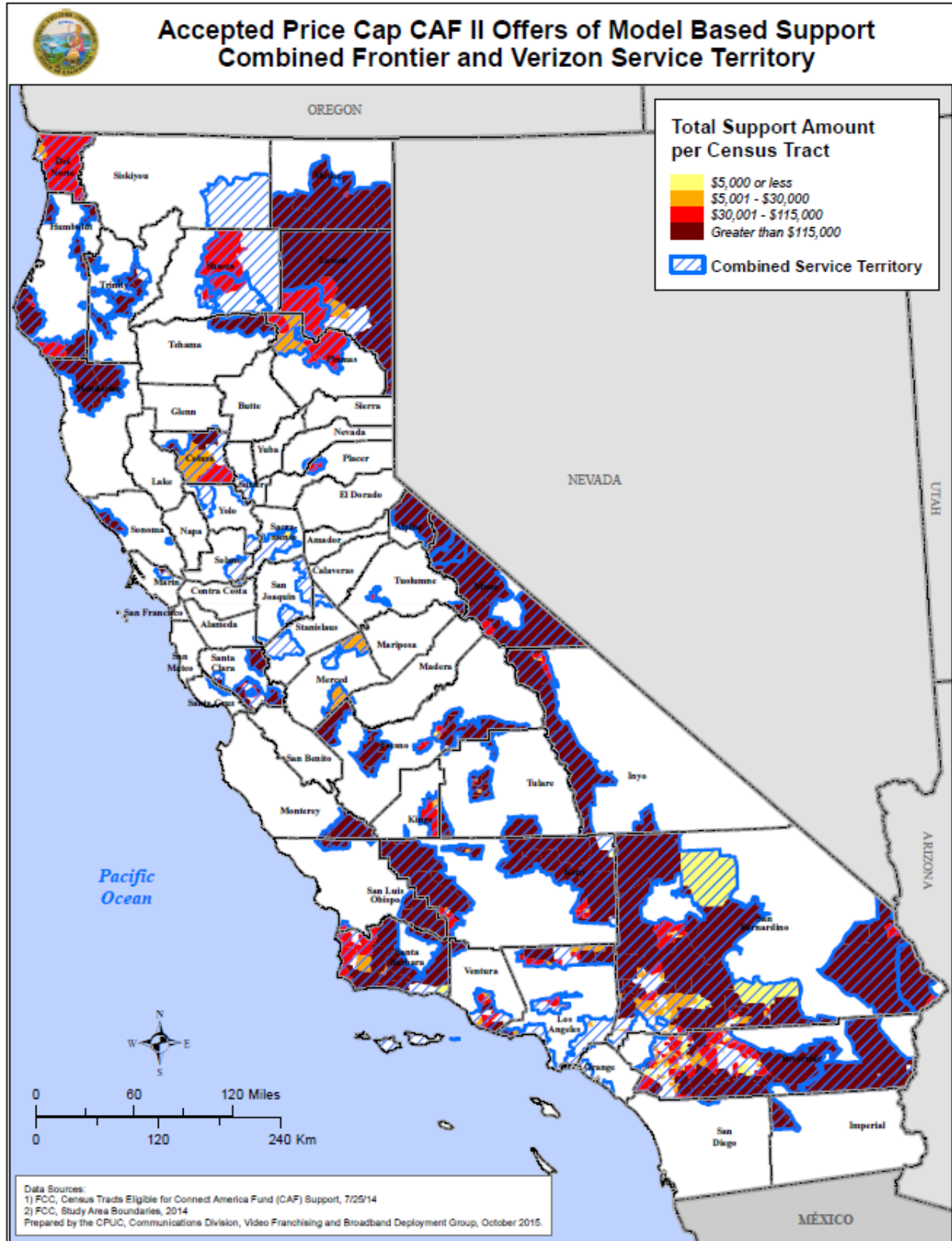
Map of Gigafy Phelan Project (below)

For comparison purposes, below is a map illustrating the areas (in purple) for which Draft Resolution T-17525 proposes to approve CASF grant funding for the Gigafy Phelan project. This map is from Draft Resolution T-17525, Appendix B.



Attachment B: CPUC's Map of Frontier and Verizon CAF II Accepted Areas Map

This map was prepared by CPUC Communications Division, Video Franchising and Broadband Deployment Group in October 2015, available at: <http://www.cpuc.ca.gov/General.aspx?id=9295>. The map shows the areas in California that Frontier accepted CAF II funding pursuant to D.15-12-005.



Attachment C: Timeline of Events

Timeline of Events: Events Relating to Gigafy Phelan Project and the Timing of CAF II Funding in California

Date	Event
August 10, 2015	Race submits application for CASF grants funding for Gigafy Phelan project. Proposed project area is in San Bernardino County. Challenge period is opened, but no challenges are submitted and no “right of first refusals” are filed.
October 2015	CPUC Communications Division creates maps of areas in California for which CAF II companies have accepted funding: http://www.cpuc.ca.gov/General.aspx?id=9295 .
December 3, 2015	In Decision 15-12-005, CPUC approves Frontier’s acquisition of Verizon’s subsidiaries in California including Verizon California. Frontier commits to obtaining CAF II funding for eligible service territories and makes other build-out commitments outside of its CAF II commitments.
January 2016	Ultimate Internet Access, Inc. (UIA) submits CASF grant application for the same area as the Gigafy Phelan project.
January 2016	In response to UIA’s application, Race submits a modified application for the Gigafy Phelan Project. Changes included increased project area and cost-savings measures.
April 1, 2016	Frontier assumes operation of Verizon California’s landline operations and begins planning broadband investments pursuant to D.15-12-005 including CAF II commitments.
September 2016	Communications Division opens up challenge period for Race’s modified application submitted January 2016. Charter submits a challenge on households that fall within proposed project. Challenge is successful.
January 30, 2017	Race submits modified application to address Charter’s challenge by removing households that are served by Charter.
April 7, 2017	Communications Division issues Draft Resolution T-17525 approving Race’s Application for grant funding of \$28,572,819 for Gigafy Phelan Project.
May 30, 2017	Communications Division re-issues Draft Resolution T-17525, modifying it to reflect change in households affected by proposed project. (7,606 households rather than 8, 361 housing units). Grant amount is lowered to \$27,629,599.