

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Approval of Funding for the Grant
Application of Race Telecommunications,
Inc. (U7060-C), from The California
Advanced Services Fund (CASF) in the
amount of \$28,572,819 for the Gigafy
Phelan Project

DRAFT RESOLUTION T-17525

**RACE TELECOMMUNICATIONS, INC. REPLY COMMENTS TO
COMMENTS SUBMITTED BY FRONTIER COMMUNICATIONS**

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Race Telecommunications, Inc. (“Race”), hereby submits its reply comments to the Frontier Communications (“Frontier”) comments concerning the proposed approval of \$28,572,819 from the California Advanced Services Fund (“CASF”) of Race’s Gigafy Phelan project.

Race has thoroughly reviewed the comments by Frontier, and we ask that the Frontier comments be disregarded and unheeded based on the fact that Frontier did not adhere to the specific guidelines as set forth in Decision D.12-02-015 section 3.12 -- Evaluation of Challenges¹. During the policy discussion, Frontier participated in and made recommendations to support the challenge process regarding Parties’ comments (3.12.1). The rules are not unknown or ambiguous.

Frontier’s latest comments clearly contradict the current rules for challenging as stated in section 3.12.2 Discussion:

“Any party that challenges a CBG as being served or (for applications for unserved areas) underserved will have to provide documentation that the CBG is in fact already served (e.g., a copy of a customer bill).”²

At this time, Frontier has provided no documentation that the CBGs in question are served; but rather submitted a late challenge response³ to the CPUC on April 19, 2017 stating that it intends to build to a portion of the homes in the project area. The CPUC staff responded to this letter declining the challenge based on the strict guidelines of the challenge process, citing lack of timeliness on Frontier’s part,

¹ D.12-02-015, Guidelines, page 33

² D.12-02-015, Guidelines, page 34

³ Frontier Challenge letter April 19, 2017 (http://cdn.downloads.race.com/frontier_phelan_challenge.pdf)

and based on the fact that information provided by Frontier shows the company only intends to serve half of the households in the project area, “the vast majority of which Frontier did not indicate as capable of achieving CASF-minimum speeds.”⁴

Irrespective of the procedural inconsistencies -- for which Frontier’s challenges alone should be rejected -- it is clear that Frontier’s attempts to interfere in Draft Resolution T-17525 are anti-competitive, monopolistic, unreasonable, and will result in further delay of fulfilling the CASF’s mission to promote deployment of high-quality advanced communications services to unserved and underserved high priority areas.

Race has been a CASF grant recipient since 2010 and our work has resulted in the deployment of state-of-the-art communications infrastructure to thousands of Californians. It is our experience that CASF and CAF (Connect America Fund) have always co-existed. Based on available information, we have found that although CAF funding has been awarded to a region, it does not guarantee completion as presented in Resolution T-17522⁵.

In the resolution, Frontier requested CASF-funding for the uncompleted areas they had previously been awarded CAF funding for. In addition, CAF funding is only available to ILECs and LECs -- meaning Race is barred from receiving any of the available CAF funds. However, ILECs and LECs such as Frontier are free to receive CASF funding in addition to CAF.⁶ Frontier has previously received CAF funding for the same project they subsequently received CASF funding for in resolution T-17484⁷. Frontier’s comments on customers paying twice for broadband are disingenuous.

Should Race’s resolution be rejected on this basis, it would go against previous precedent and discourage CLECs and wireless carriers from applying for CASF funding. The end result will inevitably lead to less competition, less innovation, and ultimately penalize California residents. The objectives set forth in California Public Utility Code Section 709⁸ are clear.

- To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.
- To encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need

⁴ CPUC letter dated April 26, 2017, (http://cdn.downloads.race.com/cpuc_phelan_challenge_response.pdf)

⁵ Resolution T-17522

(<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M167/K792/167792231.PDF>)

⁶ CAF Funding Map, (<https://www.fcc.gov/reports-research/maps/caf-2-accepted-map/>)

⁷ Resolution T-17484

(<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M153/K450/153450700.PDF>)

⁸ PUC Section 709 (<http://codes.findlaw.com/ca/public-utilities-code/puc-sect-709.html>)

and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

- To assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.
- To promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct.
- To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

In resolution T-17322⁹ where DRA challenged Frontier, Frontier responded that "in the spirit of fairness, due process, and rapid deployment of broadband to unserved and underserved Californians, the grant be approved via *existing* rules." The CPUC acknowledged and agreed.

Race now asks the same, and we respectfully request that the CPUC disregard Frontier's comments. They neither meet the strict guidelines of D.12-02-015, nor are they consistent with the objectives of the CPUC. Doing anything but dismissing Frontier's comments would set a dangerous precedent for Californians needing broadband in the unserved and underserved areas for which CASF was designed.

/s/ Raul Alcaraz

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⁹ Resolution T-17322, (http://docs.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/137226.PDF)