

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 \$27,629,599 for the  
Gigafy Phelan Project

DRAFT RESOLUTION T-17525

**COMMENTS OF RACE TELECOMMUNICATIONS, INC. RESPONDING TO COMMENTS OF FRONTIER  
COMMUNICATIONS RELATING TO RESOLUTION T-17525, APPROVING RACE TELECOMMUNICATIONS,  
INC. CASF PROJECT GRANT TO CONSTRUCT THE GIGAFY PHELAN PROJECT (FILED AUGUST 10, 2015)**

/s/ Raul Alcaraz

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Raul Alcaraz

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**DATED: June 26, 2017**

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

Race Telecommunications, Inc. (“Race”) hereby submits its reply comments to the Frontier Communications (“Frontier”) comments, filed June 19, 2017, concerning Resolution T-17525 in which the Communications Division recommends approval of \$27,629,599 from the California Advanced Services Fund (“CASF”) of Race’s “Gigafy Phelan” project. Race challenges Frontier’s filing as untimely and without merit under the CASF’s rules.

Race has thoroughly reviewed the comments by Frontier which extensively quotes Commission Decision No. (D.) 15-12-005.<sup>1</sup> After a close review of the Frontier-Verizon merger decision, D.15-12-005, and with an in-depth understanding of the criteria and requirements placed upon Frontier by this Commission, Race does not believe anything in that decision prevents the approval of grant Resolution T-17525. The conditions of the Commission in that decision is for Frontier to upgrade poor broadband services using CAF II and its own funds; it in no way allows Frontier to block other competitors from upgrading broadband in any eligible area using the CASF program, especially when a CASF application was submitted prior to the date of issuance of D.15-12-005.

Race asks that Ordering Paragraph 16 of D.15-12-005 be recognized:

“Nothing in this decision shall prevent the Commission from ordering Frontier Communications Corporation (Frontier) to take actions inconsistent with its commitments in the Settlements or the Memoranda of Understanding (MOU). Any inconsistency between a Commission order and any term of any Settlement or MOU shall be resolved in favor of the Commission order. *Frontier may not use any term of any Settlement or MOU as a defense against any future Commission order.*”<sup>2</sup> (emphasis added)

Based on this directive, this Commission should disregard the Frontier comments as a blatant attempt to block a new competitor from serving a severely underserved community by using “double dipping” as a specious argument. The CASF rules are simple. If an area is currently unserved or underserved, a CASF applicant may apply for CASF grants to serve it. The burden of proof is on Frontier to have proved during a challenge period that it actually serves actual households at CASF speeds.

Unless Frontier actually upgrades a household with CAF II funds, submits it to the CPUC via a Form 477 and it is incorporated in the map so CASF applicants can see the area is served, the Commission should ignore Frontier’s last minute promises unsubstantiated by a customer bill, receipts for construction and permits. Further, many broadband projects in California have used both federal and state funds to achieve the difficult task of serving expansive or very remote areas of rural California. Examples of projects include Digital 395, Central Valley Internet Network, Petrolia and Shingletown.

It is undisputable that under the Commission’s CASF rules, Frontier’s arguments are extremely untimely, given it missed not one but two deadlines for challenge of this Gigafy Phelan project, once on August 28, 2015 and again on October 11, 2016 (notably after the issuance of D.15-12-005). On that ground alone,

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<sup>1</sup>A. 15-03-005, In the Matter of the Joint Application of Frontier Communications Corp, Frontier Communications of America Inc. (U5429C), Verizon California, Inc. (U1002C), Verizon Long Distance LLC (U5732), and Newco West Holdings LLC for Approval of Transfer of Control Over Verizon California, Inc. and related Approvals of Transfer of Assets and Certifications), voted Dec. 3, 2015, issued December 9, 2015 (Frontier-Verizon Merger Decision).

<sup>2</sup> D. 15-12-005, Ordering Paragraph 16, at page 81.

its late filed comments should be dismissed and its motivations for filing examined.

The language involving the FCC Connect America Fund II federal grants and how they will be used by Frontier in California is vague in D.15-12-005. See for example, Exhibit 1<sup>3</sup>, Settlement Agreement between Frontier and consumer advocates ORA, TURN and CforAT, at pages 5-10 where the broadband improvements are promised for the entire state and only in paragraph 6(b) at page 8 for Los Angeles County, San Bernardino County and Riverside County. Only Frontier itself knows where it would deploy broadband to specific households in the large geographic area of “San Bernardino County”. It is up to Frontier to notify the FCC or the CPUC through the Form 477 process so the newly served areas can be mapped on the California Broadband map. This point is very important. The Commission’s current CASF rules state that applicants may apply for eligible unserved or underserved areas as set forth by the California Broadband map and any updates provided to the Commission. Race complied with the CASF rules.

The households contained in this project area showed as eligible on the maps on August 10, 2015 when the application was filed and remain eligible today. It took until April 19, 2017 – a full year and 8 months after Race filed its original Gigafy Phelan CASF application with the CPUC – for Frontier to file a late challenge with CASF Staff. It would be outrageous, unfair and inconsistent with the Commission’s own CASF rules to penalize Race for Frontier’s ineptitude in following the Commission’s own published challenge rules.

Frontier twists and obfuscates the rules of the federal CAF and state CASF programs, and attempts to undermine the CASF program by claiming that a CAF II grant precludes a CASF grant. There is no such rule. This is the CASF rule: Actual service at CASF minimum broadband speeds must extend to an unserved or underserved household before it is ineligible for CASF funding. If this rule is followed there is no double funding. The Race Gigafy Phelan project should be approved under the actual CASF rule.

Frontier attempts to trick the CPUC into setting a precedent whereby any federal fund grant can be used by Frontier and other incumbents to block new competitors in huge swaths of rural America that wish to provide underserved communities with state-of-the-art broadband. The Commission should not support this effort that subverts the goal of the program, to bring broadband service to 98% of households. One need only look back to the recent federal American Recovery and Reinvestment Act (ARRA) for broadband grants where both federal ARRA grants were paired with CASF grants to provide matching funds for rural broadband projects.

Further, the broadband speeds by the incumbent carriers are one tenth or less of what new carriers like Race are building in these very rural areas, for investments that are less than the cost of maintenance or upgrades to faulty copper networks. Companies like Race should be encouraged and commended for bringing state-of-the-art FTTH facilities to rural America and not penalized for its innovation and belief in investing its private money (the required CASF match) in rural communities. The technology behind Race’s projects increases reliability, creates redundancy, maximizes efficiency and brings down future maintenance costs. New fiber networks like the ones deployed by Race are crucial in the advancements in telehealth, digital literacy and remote learning as well as in the development of new technologies for decades to come. This cannot be done with copper networks that provide speeds of 10Mbps down/1Mbps up or below.

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<sup>3</sup> <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M156/K249/156249641.pdf>, d.15-12-005, PDF page 157

Frontier argues that “providing universal service support to multiple providers in a given area leads to duplicative investment by multiple [carriers] in certain areas at the expense of investment that could be directed elsewhere, including areas that are not currently served.” Race is not eligible to receive universal service support including CAF II. Frontier’s comment is in direct conflict with California Public Utility Code Section 709<sup>4</sup>, which promotes communications competition:

- 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 price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

The approval of Resolution T-17525 should not depend on whether or not Frontier has been awarded subsidies through CAF II or any planned infrastructure the Company may or may not have in the area. Race’s application should continue to be evaluated in accordance with *current* CPUC policy which allows CASF awards to be made in and around CAF-subsidized areas,<sup>5</sup> and which score projects with higher speeds as better for consumers.

On August 10 2015, at the time of the Race Gigafy Phelan CASF application submittal, there was no documentation that the Census Block Groups (CBGs) in the application were served. Today, nearly two years later, the CBGs are still shown in the Commission Broadband Maps as underserved and Frontier has not submitted a Form 477 to the FCC or the CPUC as to these CBGs. Under the Commission’s own rules on what constitutes eligible areas, Race’s application is for currently unserved or underserved areas (and a high priority and high impact area<sup>6</sup> as designated by the CASF Staff). The Commission should ignore last minute protests and empty promises by Frontier (not backed by any factual evidence of construction, actual service or the required filing of Form 477 with the FCC and the CPUC). Instead this protest should be discounted as blatant attempts to block a competitor whose goal is to bring superior service to a remote desert community hungry for broadband.

Frontier’s comments regarding the project area and future potential service contradict the current rules for challenging based on service levels as stated in D. 12-02-015 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).”

Frontier has failed to timely provide proof to the Commission necessary to meet current CPUC CASF regulations and substantiate its twice late challenge. In its late challenge and subsequent comments, Frontier does not present an accurate number of homes that it plans to upgrade in the project area. In its late challenge letter dated April 19, 2017, Frontier states it has plans to provide service to 4,101 households in the project area. In its May 1st comments, Frontier provides an estimate that it will provide service to “about 5,000 households”<sup>7</sup>. Yet in its most recent comments dated June 19, 2017,

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<sup>4</sup> [https://www.dgs.ca.gov/portals/6/Gallery/documents/Public%20Utilities%20Code%20Section%20709\(d\).pdf](https://www.dgs.ca.gov/portals/6/Gallery/documents/Public%20Utilities%20Code%20Section%20709(d).pdf)

<sup>5</sup> <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M156/K883/156883679.PDF>, Resolution T-17503, dated December 21, 2015

<sup>6</sup> <ftp.cpuc.ca.gov/Telco/Market%20Competition%20and%20Access/High%20Impact%20Areas%20%20Whitepaper%20Feb2017.pdf>, White paper on High Impact areas for broadband availability, February 2017, PDF Page 11 / Document Page 9

<sup>7</sup> [http://cdn.downloads.race.com/frontier\\_t17548\\_may1\\_comments\\_gigafyphelan.pdf](http://cdn.downloads.race.com/frontier_t17548_may1_comments_gigafyphelan.pdf), Frontier comments, May 1, 2017

Frontier suddenly ups the number to claim it will provide service to 7,181 of the households in the project area by August 2017. It is unfair for the Commission or for Race to try and make sense of this moving target of alleged households that Frontier claims it will serve or to attempt to decipher Frontier's plans (or lack thereof). The numbers and expected timeline provided by Frontier show inconsistencies and are unrealistic from a deployment perspective, particularly citing permits.

As an experienced CLEC, Race understands the intricacies of upgrading broadband networks and expanding infrastructure in a project area, which Frontier would be required to do in order to provide service to the most recent number of households stated by the company in their June 19, 2017 letter. This sentiment is backed up by other companies well versed in construction management, such as Bayne and Associates, a 30-year veteran in the engineering and construction field.<sup>8</sup> The fact is Frontier would need to submit various permits before deployment could even begin. Permits required include, but are not limited to Southern California Edison (90 days), Southern Pacific Railroad (90-180 days) and Caltrans (90 days). Given this information, it is plain to see that Frontier would be unable to meet an August 2017 date. At this point in time, Frontier has provided no proof of entering into the permitting process with local and government entities. In fact, it has been a challenge to receive any sort of direct response from Frontier as to what their plans entail. Race has not heard from Frontier in regards to the project with the exception of an email on the day of their initial late challenge notifying Race of Frontier's actions, despite numerous in-person opportunities to do so.

It is pretty clear that Frontier is attempting to subvert the Commission's CASF rules and processes to block a sorely needed project for a disadvantaged community. This ever morphing household information as well as the lack of information provided to Race or the Commission by Frontier, highlights their inability to substantiate their claims and does nothing to bolster the faith residents in these rural, underserved and unserved communities have in Frontier.

Boron, CA is the site of a successful and fully constructed Race CASF project that is 100% Fiber to the Home. According to Frontier, they have been investing funds in Boron since 2012<sup>9</sup> and advertise speeds of up to 50 Mbps download.<sup>10</sup> Frontier also claims "to be Boron's only Internet provider that uses a completely fiber optic network."<sup>11</sup> These claims are inherently false and further demonstrate the lengths that Frontier will go to deceive consumers *and* the Commission in regards to their service levels. Customers in Boron and Phelan face many issues with Frontier's alleged service - from billing problems, to dishonesty regarding service eligibility.<sup>12</sup> The reality is Frontier has not met the past serviceability needs of this area and cannot document they can do so now. Further, Frontier's publicly released documents demonstrate its inconsistent definitions of available bandwidth speeds with admitted shortcomings in network capacity.<sup>13</sup> With Frontier's woeful rural deployment history as the backdrop, when contrasted against Race's "Gigafy" solutions, the goals of the Commission will be met and

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<sup>8</sup> [http://cdn.downloads.race.com/Bayne\\_and\\_Associates\\_Race\\_LetterofSupport.pdf](http://cdn.downloads.race.com/Bayne_and_Associates_Race_LetterofSupport.pdf), Letter of Support, June 23, 2017

<sup>9</sup> [http://cdn.downloads.race.com/frontier\\_web\\_boron2.pdf](http://cdn.downloads.race.com/frontier_web_boron2.pdf) Frontier website, <https://west.frontier.com/ca/boron>, June 20, 2017

<sup>10</sup> [http://cdn.downloads.race.com/frontier\\_web\\_boron1.pdf](http://cdn.downloads.race.com/frontier_web_boron1.pdf) Frontier website, <https://west.frontier.com/ca/boron>, June 20, 2017

<sup>11</sup> [http://cdn.downloads.race.com/frontier\\_web\\_boron3.pdf](http://cdn.downloads.race.com/frontier_web_boron3.pdf), Frontier website, <https://west.frontier.com/ca/boron>, June 23, 2017

<sup>12</sup> [http://cdn.downloads.race.com/frontier\\_cust\\_complaints.pdf](http://cdn.downloads.race.com/frontier_cust_complaints.pdf), Phelan customer complaints, June 25, 2017

<sup>13</sup> <http://files.shareholder.com/downloads/AMDA-OJWDG/4641937339x0xS20520-17-3/20520/filing.pdf> 03/01/2017 SEC 10K filing, PDF Page 15 / Document Page 13

competitive choice for the citizens of Phelan will result with long-term benefit.

A fundamental reason behind Race's high take rate in our served communities is a direct result of high bandwidth availability resulting from fiber investments and strong customer service, as contrasted against the antiquated and unreliable copper networks of ILECs and poor customer service.<sup>14</sup> Race does not see Frontier's presence adversely affecting our company's operations in the Phelan region, due to the superior speeds and reliability a FTTH project will bring to the project's communities.

Race refers to the formal comments by CPUC staff dated June 13th, 2017 for answers to Frontier Communications Questions Regarding CASF Draft Resolution T-17525. The comments provided by staff on this date were distributed to all members on the CASF distribution service list and answer all questions in section IV of Frontier's comments. This is just another example of Frontier attempting to muddle the facts and cause confusion.

The late challenges and comments by Frontier should be dismissed as untimely, and contradictory to the Commission's goals in this CASF program – to bring broadband to unserved and underserved communities. Race complied with the current CASF rules and policies; to deny this application will turn the CASF program on its head and block new providers like Race from serving rural California with superior broadband service. The project has strong political, business, public safety, education and resident support. Race requests that the attached support letters be reviewed and recognized as essential data points from the community members, who are frustrated with current providers, and who are literally begging for reliable broadband service. Race respectfully asks that this Commission approve Resolution T-17525 "Gigafy Phelan". It is a low-income, high-priority, high-impact and currently underserved project.

Attachments:

Attachment A: Screenshots of Frontier advertising

Attachment B: Screenshots of Customer Complaints

Attachment C: Letters of Support

Respectfully submitted,

/s/ Raul Alcaraz

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<sup>14</sup><http://files.shareholder.com/downloads/AMDA-OJWDG/4641937339x0xS20520-17-3/20520/filing.pdf>, 03/01/2017 SEC 10K filing, PDF Page 30 / Document Page 28

**ATTACHMENT A:**

**Screenshots of Frontier Advertising  
Pulled from Frontier website, June 20<sup>th</sup> and 23<sup>rd</sup>, 2017**



Showing Pricing for Boron, CA

[Change Location](#) | [Check Availability](#)

Products ▾ Deals ▾ Resources ▾ Customer Support

**Call Now 1-877-532-7852**

# Get FiOS Internet in Boron, CA

Simply FiOS 50/50

**40<sup>00</sup>**  
/mo

- As fast as 50/50 Mbps download and upload
- Top-rated broadband technology with dedicated 100% fiber optics to the home

for 6 months. \$50 per month for months 7-24. Equip. and other fees apply. Services are subject to all applicable Frontier terms & conditions. [Click here for important details](#)

**Call Now. 1-877-532-7852**

*Agents available for the next 03 : 51 : 59*



## Choose What You Want:

Get fast, reliable Internet, FiOS TV, and Phone service with FiOS® from Frontier. Get just Internet, or sign up for a Double or Triple fits of FiOS for TV and phone. Simply click below to view what you want.

**Call 1-877-532-7852 to Order Now**





# Frontier strives to make Boron a better place.

Frontier Communications works tirelessly to be locally engaged in the communities it serves, such as Boron, CA. This dedication ranges from investing millions in 2012 in order to expand Internet availability across the state, to employing thousands of Californians.

FiOS Internet in Boron is also playing an important role in education. With 5458 students per librarian and a pupil-to-teacher ratio of 19.90:1 in Boron public schools, children need more resources than are available to them through individual educators.

Frontier Internet in Boron helps connect schools and homes across The Golden State so that children have more resources for learning wherever they are. Through safe, wireless devices and access to Frontier FiOS Internet speeds, children in Boron have more educational opportunities than ever before.



Find the best TV and Internet deals in your area:

Please choose your city from the list

Select a City

### SERVICES

- Business
- Bundles
- Internet
- TV

### COMMUNITY

- Media Center
- Local Retailers
- Scholarship

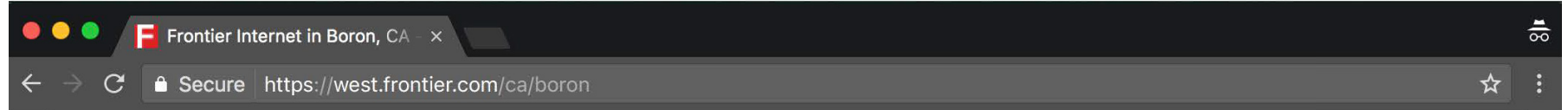
### ESPAÑOL

- FiOS Internet
- Internet
- FiOS TV
- DishLATINO
- Teléfono
- Paquetes

### TERMS & PRIVACY

- Legal
- Privacy Policy
- Terms of Service

Call 1-877-532-7852 to Order Now



# Save on Boron Utilities

## *Get a FiOS bundle from Frontier*

Modern consumers use the Internet for nearly every aspect of their daily life, including activities like shopping, entertainment, communication, and learning. Having a faster, more reliable Internet connection can make all of that easier. Luckily, [FiOS Internet](#) from Frontier offers unequalled speed and service. Frontier happens to be Boron's only Internet provider that uses a completely fiber-optic network. This advanced network is capable of providing the 700 homes in Boron with connection speeds as high as 150 Mbps. Frontier Communications can help you get faster, more reliable Internet, but that's just the beginning. Customers can also sign up for FiOS Internet, TV, and home phone service, and the more services you get, the bigger your discount. This also simplifies your monthly bills and allows you to save money on a regular basis while enjoying tons of great services. To find out more about Frontier FiOS availability in your neighborhood, call today. A FiOS bundle can give you the connections and entertainment you've been looking for in addition to all these benefits:



Internet speeds ranging from 30Mbps to 150Mbps



FiOS TV with crystal-clear HD, hundreds of channels, and thousands of free On Demand titles



Unlimited long distance and local phone options, ideal for everyday or emergency calls

**Attachment B:**

**Customer Complaints re: service and billing**



Search



**Debbie Maxey** ▶ Phelan Ca



June 9 at 3:43 PM ·

I posted the other day about Frontie' s horrible service. That they set me an appt., never showed and when I called they said...They never set me an appt.

Well, today...I received an email survey from Frontier. Asking how my appointment went. Lol. Well, you can guess what ratings I gave.

So the system said I had one...

See attached.



We're writing because you had a service appointment with our technician Daniel on June 07, 2017 and we want to know how you thought it went. Will you please share your feedback in this short 3-5



Write a comment...



Post



Verizon 7:59 PM 30%

< Search

 **Laura Newbiggin**

I moved out in March of 2016 set an appointment with Frontier not once but twice due to the first being a no-show turned out second a no-show as well then suddenly I started receiving monthly bills as though they had hooked me up they have never provided service to my address here in Phelan yet they were charging me monthly now though they claim my address cannot be serviced they haven't figured out how to quit billing me just yet Frontier is horrible.

June 10 at 9:40 AM · Like · Reply · 😡 1



# Moderate Comment

**Caution:** You are about to approve the following comment:

**Author**

Darwyn Spivey

**Email**

darwyn1@verizon.net

**In Response To**

[Phelan, We Need Your Support!](#)

**Submitted on**

2017/06/25 at 1:00 am

**Comment**

Frontier is absolutely horrible...I filed a complaint with the FCC and Frontier actually lied to the FCC, stating that they "attempted to contact me on several occasions by phone" ....this is complete bullcrap...they called once..I answered and a recording said they were attempting to contact me...and to call them back...which I did several times and left messages. This company needs to GO...I wonder how much it costs to repair those little green vault poles with all those wires inside that stick up beside the road.....I saw a car drive right over one once.

[Edit](#)

Approve Comment

[Cancel](#)

