

November 25, 2019

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**VIA EMAIL AND U.S. MAIL**

Cynthia Walker  
Director, Communications Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

**Re: Comments of Charter Communications Operating, LLC  
on Draft Resolution T-17668 (Frontier Taft Cluster Project)**

Dear Director Walker:

Pursuant to Rule 14.5 of the Commission's Rules of Practice and Procedure, Charter Communications Operating, LLC ("Charter") submits the following comments regarding Draft Resolution T-17668 ("Resolution") approving California Advanced Services Funding (CASF) funding to Frontier California, Inc. ("Frontier") to construct the Taft Cluster Project. Charter's comments identify: (a) technical errors with the Resolution's description of the scope of the Project, namely, the census blocks and census block groups covered; and (b) several census blocks which are included in the Taft Cluster Project, but which Charter believes are ineligible for CASF funding, as explained in detail below.

**Census Blocks and Census Block Groups Encompassed by Project**

Charter first notes that the Resolution does not specify which census blocks are encompassed by the Taft Cluster Project, as revised – the Resolution only identifies the relevant census block groups.<sup>1</sup> Charter developed its earlier challenge to Frontier's Taft Cluster Project application based largely on Charter's close analysis of each census block's potential eligibility for funding. Charter was able to confirm with Staff which census blocks are encompassed by the Project as approved by the Resolution; other interested parties may, however, be limited in their ability to substantively comment on the Resolution as long as the Resolution only identifies census block groups. Charter suggests that the table at Appendix A to the Resolution be updated to specify all relevant census blocks.

Furthermore, the Resolution inconsistently identifies which census block groups are covered by the Project. Finding 3 states that the relevant grant eligible areas are in the following seven census block groups:

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<sup>1</sup> See Resolution Finding ¶ 3; Resolution Appendix A at A-1.

- 060290033042
- 060290033931
- 060290034001
- 060290033041
- 060290033043
- 060290037002
- 060290037001

Appendix A, however, identifies the following 5 additional census block groups as encompassed by the Project:

- 060290046041
- 060290047012
- 060290047011
- 060290047013
- 060290047021

Charter recommends that, once Staff establishes the final list of census blocks encompassed by the Taft Cluster Project, such list be incorporated into Appendix A and Finding 3 be updated with a corresponding list of census block groups.

#### **Census Blocks Where Charter Showed a Subscriber as of June 5, 2019**

On June 5, 2019, Charter submitted a challenge to portions of Frontier's CASF application for the Taft Cluster Project. That challenge was submitted confidentially and is reincorporated here by reference.

Based in part on Charter's challenge, Staff suggested that Frontier revise its application to remove numerous ineligible census blocks. Though the Resolution reflects Frontier's revised application, several areas remain that are ineligible. Without revisions to the draft Resolution, Charter is concerned that, should the Resolution be adopted as drafted, Frontier will receive CASF funding to serve several census blocks where Charter has deployed plant and has subscribers, contrary to the CASF guidelines.

Charter challenged three census blocks for which Frontier sought funding because Charter has deployed plant and has one or more subscribers in each block. Specifically, Charter challenged funding for the following census blocks:

- **060290034991060**
- **060290035002007**
- 060290047011035

Two of those blocks (bolded above) remain part of Frontier's application despite Charter deploying plant and having at least one subscriber there, as demonstrated by confidential subscriber data appended to Charter's challenge.<sup>2</sup> Therefore, Frontier should not receive funding to serve blocks **060290034991060** and **060290035002007**, as Charter has demonstrated these blocks should be deemed as served and, as such, ineligible for CASF funding.

### **Additional Census Block Where Charter Now Shows a Subscriber**

Charter has also identified one additional census block, **060290037001046**, where it now serves at least one subscriber. The fact that this block now has a subscriber underscores Charter's concern that CASF funding should not be used to subsidize an overbuild where an existing provider has already deployed infrastructure. Charter reiterates that any census blocks with serviceable addresses and Charter subscribers should be deemed as served and ineligible for CASF funding.<sup>3</sup>

### **Census Blocks Where Charter Has Deployed Plant**

In its challenge, Charter identified seven census blocks in the Taft Cluster Project area where it appears no subscribers exist, but where Charter already has deployed infrastructure. The Resolution would approve funding for six of these seven blocks.

Charter reiterates the various reasons why census blocks should be ineligible where CASF funds would result in overbuild. Although the Commission adopted challenge rules focusing on carrier demonstrations that subscribers exist in a given block, D.18-12-018 contemplates situations in which exclusive reliance on subscriber data could result in unnecessary overbuilding and waste of CASF funding. Such waste of funding is not only contrary to the purpose of CASF but would also reflect bad public policy by deflecting much needed funding from truly unserved areas. The fact that Charter already provides service in a block but has few or no customers calls into question the rationale for a competitor to serve the same area and renders the need for public subsidy as unnecessary and wasteful. The Commission recognized that subsidizing an actual overbuild situation with limited public CASF monies should be reviewed more carefully and provided a mechanism by which "[c]oncerns that using subscriber data to validate the level of

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<sup>2</sup> Section 11 of the Program Rules requires a challenge to provide (a) a CSV file containing all serviceable addresses in the census block; (b) a customer bill from one subscriber; and (c) an attestation that the households identified in the CSV file as serviceable have capability to receive minimum speeds of 6 Mbps download and 1 Mbps upload. As explained in Charter's challenge, Charter raised concerns with Communications Division staff that providing a customer bill would potentially require Charter to violate federal and California consumer privacy laws. Charter addressed these concerns with Communications Division staff and provided sufficient information to allow Staff to verify that addresses in these blocks are served by Charter.

<sup>3</sup> If desired, Charter will submit a confidential demonstration to Staff of the subscriber through the production of a redacted bill.

broadband deployment may lead to overbuilding of networks may be addressed as part of the challenge process.”<sup>4</sup>

Moreover, if the presence or absence of a current subscriber is the sole reason for which a funding challenge is denied, it completely ignores the remaining overwhelming deployment data that Charter provided showing it serves the census block. Providing no weight to deployment data based on whether or not a customer has chosen to purchase Charter’s broadband service creates opportunities for misuse of the CASF program and taxpayer dollars.

The table below identifies the six census blocks in which plant is deployed and reiterates why CASF funding should be denied:

<b>Census Block</b>	<b>Rationale to Deny Funding</b>
060290033042923	This block consists of undeveloped land with only one serviceable address. This appears to be a situation where Frontier is seeking funding for middle mile facilities without explicit justification and without a showing of indispensability. Charter has deployed facilities and could serve the household in this block.
060290035001081	This block appears to consist of undeveloped land but is surrounded by census blocks in which Charter has deployed. As there are no serviceable addresses in this census block, it should be excluded from the CASF grant application.
060290046041029	This block consists largely of undeveloped land with one building on it. Charter has node M01 running North and South on Arzoli Avenue with cable ready for plant extension when the area is developed or if the one current building requests service; thus, the census block at issue is serviceable. This appears to be a situation where Frontier is seeking funding for middle mile facilities without explicit justification and without a showing of indispensability.
060290047012006	This block consists of agricultural land with only one or two households in the block. Charter has identified one household with a serviceable address within this block and could serve it if requested.
060290047012033	This block is largely undeveloped land and has only one household. Charter has identified such household as a serviceable address and could provide service if requested.

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<sup>4</sup> D.18-12-018, p. 12.

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Census Block	Rationale to Deny Funding
060290047021022	This block consists of agricultural land with limited residences. Charter has deployed network in this area which could provide service to these residences if requested.

### CONCLUSION

For the reasons set forth in these Comments and in Charter's June 5, 2019 Challenge, the final resolution should remove Census Blocks 060290034991060, 060290035002007 and 060290037001046. In addition, the blocks identified above as blocks in which Charter has deployed plant but does not have subscribers should also, as a matter of policy, be removed from the project. Once the blocks are removed, the funding amounts should be reduced accordingly.

Sincerely,



James W. McTarnaghan

cc: Phillip Enis, CPUC Communications Division (via email)  
Dorris Chow, CPUC Communications Division (via email)  
Vince Coppey, CPUC Communications Division (via email)  
Carlos Jennings, CPUC Communications Division (via email)  
CASF Distribution List (via email)

## APPENDIX A

### Proposed Revisions to Draft Resolution T-17668

Remove (or recommend that Frontier revise and resubmit its application to remove) the following census blocks from the Taft Cluster Project:

- 060290034991060
- 060290035002007
- 060290037001046
- 060290033042923
- 060290035001081
- 060290046041029
- 060290047012006
- 060290047012033
- 060290047021022

Once Staff establishes the final list of census blocks encompassed by the Taft Cluster Project, the Resolution will require the following updates:

- Ensure that an accurate list of census block *groups* is included in Finding paragraph 3.
- In Appendix A, rather than specify census block groups, specify the complete list of census blocks encompassed by the project.
- Update multiple references to the number of census blocks and unserved households throughout Section I (including Table 2) and Finding paragraphs 1 and 3.
- Update all references to the funding determination, assuming that a change to the number of census blocks encompassed by the application will result in a revised funding determination. This includes references in the Summary, Section III (including Tables 5 and 6), Finding paragraph 5, and Ordering paragraph 1.