

July 9, 2018

Rachelle Chong
Law Offices of Rachelle Chong
345 West Portal Avenue, Suite 110
San Francisco, California 94127
Via Email: rachelle@chonglaw.net

PAL Coordinator
Telecommunications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Race Telecommunications, Inc. (U-7060-C) Tier 2 Advice Letter No. 6 for Approval to Transfer Control of Bright Fiber Network, Inc. (U-7287-C) to Race Telecommunications, Inc

Dear TD PAL Coordinator and Regulatory Counsel Rachelle Chong,

I am writing to urge the Commission and Regulatory Counsel to deny the Advice Letter No. 6, which through a stock purchase agreement will transfer control of Bright Fiber Network, Inc. (Bright Fiber) to Race Telecommunications Inc. (Race).

Consumers in Nevada County will likely be harmed if this action is approved by the Commission. This appears to be a now all-too-common “bait-and-switch” maneuver, whereby an underground fiber optic infrastructure is first approved (with broad consumer support and public grant funding) and then permitted to change to a new project design that seemingly depends on heavy telecommunications wires, boxes, and antennae mounted on already overloaded power poles in fire-prone areas.

In 2015 grant funding from state public funds of more than \$16 million was given to Bright Fiber to facilitate high-speed internet service with an UNDERGROUND FIBER OPTIC system, which is the most secure, private, and reliable infrastructure for delivering high-speed internet services to consumers. This proposed stock purchase agreement is unduly financially discriminatory in that Bright Fiber has already charged the public for something that will not be built; and then the public will be charged again for a different project design that is inferior and dangerous (wireless on poles).

The assertion that Bright Fiber Network has no customers and therefore does not need any more public notice than the 3 days required for the CPUC filing is itself questionable. In fact, an unrevealed large number of would-be customers in Nevada County have already paid Bright Fiber the cost of their first month’s bill for this service (\$119). Such an offer has repeatedly been made to my own household by Bright Fiber (or Spiral Internet, John Paul’s related internet services business) of Nevada City. A seeming large proportion of those would-be customers who have heard of this sale and the changes Race wants to make to primarily above-ground “aerial delivery on existing poles in existing rights-of-ways” (as reported in a local newspaper article) are unhappy with these proposed changes and are wondering what happened to the funds they paid in over the last several years. At the very least more public notice and a longer period of commentary should be allowed to inform the people of Nevada County and allow them to participate in the deliberations on this proposed change.

The new approach proposed by Race increases their profitability by seemingly switching part of this project to above-ground wireless to be built on existing public power pole infrastructure. But this wireless component introduces significant privacy, security, health, and reliability problems for internet connections and is discriminatory for the customers and residents/businesses affected. It also could be likely to reduce nearby property values. (See the attached document for a select summary and explanation of scientific research on adverse health and environmental effects and property-value reductions of radiant low-frequency wireless installations.) This would appear to take place apart from local governmental review. Please do not allow Race to cut corners at the expense of a community’s safety and wellbeing by installing on vertical infrastructure.

It is way too unclear and vague what Race means by switching an unknown portion of this project to its

“standard” delivery of a “primarily aerial approach along existing poles and right-of-ways.” There are many unanswered questions. Does this mean above-ground fiber-optic lines? Does it mean wireless, low-frequency electromagnetic radiation via antennas? Or something else? Is it subject to change of technologies after initial installation? Could this above-ground installation ultimately lead to a back-door loss of local control over our public rights-of-ways, as has already been seen where this “bait and switch” technique has transpired in various cities across the nation? For example, once installed on poles, are those installations subject to collocation by other providers without typical planning review by local government bodies?

This sort of change in technology (if that is what it is) seems part of the larger pattern that Americans nationally have paid out more than \$400 billion to the telecom industry over the last twenty years for underground fiber optics to every home, with sparse results and no accounting of the funds paid and spent.

Underground fiber optic installation is the most secure, private, and reliable. The citizens of Nevada County deserve that their fiber optics stay underground. Switching to use of power poles and aging vertical infrastructure in a drought- and fire-prone California is irresponsible. As has been seen during large wildfires of recent years, overburdened power poles create serious fire hazards, and we cannot depend on wireless infrastructure to survive fires. In rural, forested areas like Nevada County, the cost of a single uncontrolled wildfire would greatly outweigh any supposed benefits of this changed proposal.

If Race wants to purchase Bright Fiber and continue to install an all-underground system, that would be beneficial. But the Commission and regulatory counsel should not simply help Race cut corners on costs. Allowing a sale from Bright Fiber to Race may enrich a company that publicly states wireless is quicker and cheaper for them, but it does not serve the best interests the public.

Thank you for your consideration,

David Adams, Ph.D.
Center for Architectural & Design Research
[REDACTED]
Penn Valley, CA 95946
[REDACTED]

July 9, 2018

Rachelle Chong
Law Offices of Rachelle Chong
345 West Portal Avenue, Suite 110
Commission
San Francisco, California 94127
Via Email: rachelle@chonglaw.net

PAL Coordinator
Telecommunications Division
California Public Utilities

505 Van Ness Avenue
San Francisco, CA 94102

Re: Race Telecommunications, Inc. (U-7060-C) Tier 2 Advice Letter No. 6 for Approval to Transfer Control of Bright Fiber Network, Inc. (U-7287-C) to Race Telecommunications, Inc

Dear TD PAL Coordinator and Regulatory Counsel Rachelle Chong,

This is a brief addendum to the letter I sent last night to urge the Commission and Regulatory Counsel to deny the Advice Letter No. 6, which through a stock purchase

agreement will transfer control of Bright Fiber Network, Inc. (Bright Fiber) to Race Telecommunications Inc. (Race).

The Advice Letter states the following: "Race hereby attests that the transaction does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment pursuant to the California Environmental Quality Act (CEQA) Guideline 15378. BFN has successfully completed its CEQA review of its CASF Bright Fiber Project. See Resolution T-17565, issued May 16, 2018. Race intends to use its standard primarily aerial approach along existing poles and right-of-ways which minimizes environmental impacts yet delivers reliable broadband speeds."

As also argued in part in my previous letter, I contend that the original CEQA review approving the original CASF Bright Fiber Project would be no longer valid, given the intended change in the project by Race to "Using the standard Race construction approach using primarily aerial delivery on existing poles in existing rights-of-ways . . ." This changes the primary technology of the project from a benign underground fiber optic approach to an apparently above-ground low-frequency electromagnetic radiation antennae approach. The attachment to my previous email cites a variety of scientific evidence that this above-ground technology is harmful to wildlife and the natural environment and possibly also to the authentic appearance of national historic preservation sites in Nevada County.

Thank you for your earnest consideration of this additional point,

David Adams
Center for Architectural & Design Research

[REDACTED]
Penn Valley, CA 95946
[REDACTED]

7/10/2018

Re: Race Communications/Bright Fiber Nevada County

Dear Sirs: I am writing regarding the purchase of the Bright Fiber Network by race communications. First off, let me say that I am quite please to see a bigger company (Race) buying Bright Fiber. The past 5 years of waiting for work to begin on a new fiber network in Nevada County has been very frustrating, and I hope that having Race take over will move things along.

I do have a couple of questions/comments though.

First, I was quite happy to see the original plan included underground cable (glass). I would like to see all utility lines in this heavily forested county be moved underground, as we are all tired of power failures and fire potential caused by falling tree limbs. Thus, I am sorry to see that the new plan calls for using existing poles. If that could be reversed, yet the project still move forward, that would be great.

If however the above ground installation is necessary, won't that cost a lot less? If so, will the monthly charge to hook up (currently set at \$119 a month) be lowered to reflect the cost savings to Race? I assume above ground will cost roughly half of an underground installation (or maybe even less). Given that, will the monthly fee go down to something closer to \$60 a month? That lowered fee would certainly make it more affordable for folks to use. And given the original \$16.7 million grant was for an underground installation, I see no reason that if done above ground at a significant cost savings that the money saved should not be used in a way to benefit the public, since it is public grant money being used.

Thank you for hearing my concerns.

Sincerely,
Jeff Barton

[REDACTED]
Nevada City, CA 95959
[REDACTED]

July 8, 2018

Richard Cristdahl

[REDACTED]
Nevada City, California 95959
[REDACTED]

PAL Coordinator
Telecommunications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Letter in Opposition to Stock Purchase of Bright Fiber by Race Telecommunications

Dear TD PAL Coordinator,

The Commission should not approve the Advice Letter No. 6, which through a stock purchase agreement will transfer control of Bright Fiber Network, Inc. (BFN) to Race Telecommunications Inc. (Race).

We the consumers in Nevada County will be hurt if this action is approved by the Commission. It is a bait-and-switch problem when fiber optic infrastructure is first approved (with broad consumer support and public grant funding) and then permitted to change to a new project design that depends on heavy telecommunications wires and boxes mounted on already overloaded power poles in fire-prone areas.

Grant funding from public funds of more than \$16 million was given to Bright Fiber to facilitate high-speed internet service with underground FIBER OPTIC system, which is the most secure, private and reliable infrastructure for delivering high-speed internet services to consumers. This proposed stock purchase agreement is unduly discriminatory in that Bright Fiber has already charged the public for something that will not be built; and then the public will be charged again for a different project design that is inferior and dangerous. It is like Bright Fiber simply got into the game to resell and make a profit on the transaction, leaving the public hanging.

The new approach proposed by Race maximizes their profitability by switching to wireless to be built on existing public power pole infrastructure. But this wireless component introduces significant privacy, security, and reliability problems for internet connections.

Worse, overburdened power poles create serious fire hazards and we cannot depend on wireless infrastructure to survive fires. California has experienced the terrible consequence of wildland fires in Napa and Sonoma counties where above-ground wireless communications burned up (77 cell towers and countless power poles with wireless infrastructure). The CPUC itself has fined SCE many millions of dollars for the Malibu fires which were attributed to power poles overburdened by telecommunications. In areas like Nevada County where homes are widely

interspersed in oak woodland and conifer forested hills, the cost of a single wildfire would greatly outweigh any benefits of this proposal.

If Race wants to buy Bright Fiber and install an all-underground system, that would be beneficial. But the Commission should not help Race cut corners on costs. Allowing a sale from Bright Fiber to Race simply enriches a company who publicly states that wireless is quicker and cheaper for them. It is not better for the public.

Thank you for your consideration.

Richard Cristdahl, homeowner



ColfaxNet, LLC
PO Box 1597
Colfax, CA 95713
530.346.8411
cs@colfaxnet.com

July 10, 2018

VIA EMAIL AND OVERNIGHT MAIL TO TD.PAL@CPUC.CA.GOV

Telecommunications Proposal and Advice Letter Coordinator
Communications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Bright Fiber Network/Race Communications
Tier 2 Advice Letter No. 6
Opposition to transfer between Bright Fiber and Race

Dear RD PAL Coordinator:

ColfaxNet, LLC, (ColfaxNet) operates High-Speed Wireless Internet Service in Nevada and Placer Counties including the area that T-17495, as proposed, will duplicate service to. The Commission is aware that ColfaxNet is an Interested Party and a Significant Stakeholder in this issue. It is appropriate that ColfaxNet be notified of any actions pertaining to this topic and is now being harmed by the fact that the proper channels of communication were not used to include ColfaxNet in the discussion.

This proposed stock purchase agreement is specifically anti-competitive and discriminatory due to the enormous government contribution of \$16,700,000.00 that was given to our competitor creating a government-sponsored monopoly that will compete with us in our already-served areas in direct contradiction to the spirit of the CASF fund. The grant is a public asset and should not be "sold" to anyone (especially for an individual's profit) without the same scrutiny that the original application endured.

ColfaxNet only became aware of the BFN Tier 2 Advice Letter No. 6 when a concerned resident in Nevada County brought it to our attention and directed us to the local newspaper article. This resident is concerned that their monies entrusted to the CPUC are being not being properly guarded by the CPUC.

Why were ColfaxNet and other WISPs and ISPs not properly notified by the CPUC, BFN or Race of the Advice Letter's existence and the intention to transfer this most

important public asset to another entity? The deadlines, imposed by the rules governing the time to comment regarding the Advice Letter and the lack of proper notification to interested parties, were insufficient to seek appropriate counsel.

ColfaxNet specifically opposes the sale and ownership transfer of the funds granted to BFN by Resolution T-17495 to Race Communications (selling of the grant) on the basis that they are anti-competitive and discriminatory and is in need of discussions with Interested Parties and Stakeholders.

Race has not gone through the scrutiny of the CASF fund requirements regarding T-17495 and, although ColfaxNet originally contested the awarding of the funds, we further contest this transfer because the area of T-17495 is now further covered by our service area and at higher speeds than originally were available. In short, the landscape of T-17495 has changed dramatically in the last two and half years of inaction on BFN's part. Although service levels in 2015 were sufficient to satisfy the Commission's requirements, ColfaxNet's current Service levels have improved well beyond the "served" levels required by the Commission.

Because of the quiet nature of this proceeding, ColfaxNet has not been given the appropriate amount of time to enlist the support of legal counsel to respond to this Advice Letter. In fact, ColfaxNet and others were not notified of the submission of this letter at all and merely happened across an article in a local newspaper. As such, the Advice Letter does not have the proper public input to be allowed to progress through the required processes.

Bright Fiber Network (BFN) claims to have no assets i.e. customers or infrastructure, despite the fact that more than 250 households have paid BFN \$119.00 for services¹.

Don't these 250+ households (as of 02/17) that have signed up and paid \$119.00 for their first month's service deserve the opportunity to address this issue? What has BFN done with that income? BFN claims "*Any household that made an advance payment of \$119 for the first month of gigabit service will be given that service as promised.*"¹ and "*Those interested in having the service have paid \$119 — the cost of the first month's bill.*"² Are these households not customers? These residents need proper notice of this proceeding.

The project's plans have dramatically changed from their original underground installation to aerial. During BFN's initial sales pitch to the Commission regarding T-17495, BFN claimed that the reason for the entire system was going to be installed underground was because the existing aerial system in Nevada County was "aged", "antiquated" and "unorthodox" and would be unreliable if it was installed on the existing overhead infrastructure. How is it that Race can overcome this significant shortfall?

¹ <https://www.theunion.com/news/race-communications-to-acquire-nevada-countys-bright-fiber-and-its-fiber-network-project/#>

² <https://www.theunion.com/news/local-news/tweaks-made-to-bright-fiber-plan-fiber-optic-network-will-be-both-above-below-ground/>

The project has changed too much to not be properly re-evaluated with input from Stakeholders and Interested Parties. The households that paid \$119.00 signed up for underground service to their home not overhead.

We ask that the deadline for submission of protests be extended so that we and other interested parties have the needed time to enlist proper support of legal counsel a respond to this in an appropriate fashion. ColfaxNet and others will be harmed if not given the reasonable opportunity to completely comment on this issue.

Please contact us with any questions or comments.

Sincerely,

/s/ Lynele Juchau

Lynele Juchau

ColfaxNet, LLC

PO Box 1597

Colfax, CA 95713

530.346.8411

support@colfaxnet.com

cc via E-mail:

Rachelle Chong

Raul Alcaraz

John Paul



WASHINGTON, DC

July 10, 2018

VIA OVERNIGHT SERVICE AND EMAIL TO TD PAL@CPUC.CA.GOV

Telecommunications Proposal and Advice Letter Coordinator
Communications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

**Re: Race Communications, Inc. (U-7060-C)
Tier 2 Advice Letter No. 6
Approval to Transfer Control of Bright Fiber Network, Inc. (U-7287)
Joint Protest to Proposed Transfer of Control**

Dear TD PAL Coordinator:

Pursuant to Section 7.4.1 of General Order 96-B of the California Public Utilities Commission (“CPUC”), SmarterBroadband Inc. (“SBB”) and ColfaxNet, LLC (“ColfaxNet”), hereby jointly protest the proposed transfer of control of Bright Fiber Network, Inc. (“BFN”) to Race Communications, Inc. (“Race”).¹ As described in detail below, the Advice Letter filed in connection with the proposed transaction makes “material errors and omissions” and proposes “unreasonable” relief as is thus inconsistent with specified Sections 7.4.2(3) and (6) of General Order 96-B. In sum, BFN has not performed on a \$16 million California Advanced Services Fund (“CASF”) grant issued by the CPUC in December 2015 to provide broadband service to Nevada County, California, and readily concedes that it has undertaken no construction activities despite accepting deposits from prospective customers.² Moreover, Race proposes dramatic but undisclosed changes to the proposed fiber network that would place the fiber primarily above ground on aerial connections rather than underground as CPUC anticipated when it approved the grant.

¹ See Letter from Rachele Chong, Outside Counsel, to Telecommunications Proposal and Advice Letter Coordinator, CPUC, dated June 20, 2018 (“Advice Letter”).

² See *id.* at 2 n.1. See also Liz Kellar, “Spiral Internet’s high-speed fiber optic network in limbo,” The Union (Feb. 7, 2018), available at <https://www.theunion.com/news/local-news/spiral-internets-high-speed-fiber-optic-network-still-in-limbo/> (last visited July 9, 2018), and appended hereto as Attachment 1.

The Advice Letter fails to demonstrate that allowing the transaction to be consummated would be reasonable in light of the omission of material facts underlying the grant, the material change in the network architecture, the expansion of other fixed broadband networks into the funded service area and material changes to California law regarding CASF grants. Accordingly, the CPUC should (a) suspend the Advice Letter pursuant to Section 7.5.2 of General Order 96-B, and (b) rescind the CPUC grant. If the CPUC is not inclined to take such actions despite the evidence, then pursuant to Section 7.5.1 of General Order 96-B, the CPUC should request additional information by requiring Race to re-apply for CASF grant funding based on the current competitive and deployment environment and to provide updated cost estimates predicated on changes to the network design and the smaller scale of the network that does not overbuild areas where SBB, ColfaxNet and other broadband providers currently provide service. Such review is particularly appropriate given recent statutory changes to direct broadband funding primarily to unserved areas. If necessary based on that review, CPUC should have the right to modify the terms of the grant to eliminate overbuilding and to ensure that the grant amount corresponds to the revised project costs and geographic scale and does not confer a windfall on Race. Any reduction in the amount of the grant should be available for CASF grants CPUC may choose to make in the future.

Background

SBB is a fixed wireless broadband provider that currently provides broadband service to approximately 3,100 residential and business subscribers in the Sierra Nevada foothills between Sacramento and Lake Tahoe in Nevada County. This area is rural, very hilly and heavily foliated. SBB transmits from 84 different locations using a wide array of unlicensed spectrum (900 MHz, 2.4 GHz, 5 GHz) and “lightly licensed” spectrum in the 3650-3700 MHz band.

ColfaxNet, is a privately-funded fixed wireless broadband provider that currently provides broadband services to approximately 2,000 residential and business subscribers in the Sierra Nevada foothills in Placer and Nevada County in the area that BFN’s funded service area overlaps. ColfaxNet also uses a wide array of unlicensed spectrum (900 MHz, 2.4 GHz, 5 GHz) and “lightly licensed” spectrum in the 3650-3700 MHz band.

Although couched as simple transfer between two companies that each hold CPCNs, the transaction between BFN and Race involves the acquisition of a single asset – the CPUC’s December 7, 2015 grant for broadband deployment in Nevada County, California.

Protest

In the years since BFN applied for and received its grant, SBB, ColfaxNet and others have substantially expanded their broadband networks. Areas that were previously identified as underserved with broadband are now served with broadband from SBB, ColfaxNet and other

smaller fixed wireless providers.³ Yet within this time period, BFN admits that it “has not begun construction of the Bright Fiber Project” to be subsidized by CPUC.⁴ It has “no voice customers at present, [and] there is no customer base.”⁵ Based on public statements, however, BFN has taken \$119.00 deposits from as many as 580 customers as payment for their first month’s service.⁶

In its application for CASF funding, BFN proposed a fiber network that would be completely underground. BFN explained that the aerial infrastructure was impractical due to “weather factors, tree density, the obsolescence of existing poles and unorthodox pole attachments” thereby requiring underground construction as the reliable alternative.⁷ The CPUC resolution granting BFN’s original funding request provides that the project is to be completed “within 24 months of the start date,” with the “start date” to be mutually determined by the Communications Division and BFN “after Bright Fiber has obtained all environmental and permitting approvals.”⁸ Although environmental approval was finally obtained in May 2017, almost 18 months after the funding grant, recent articles in the local news media make clear that permitting has not yet begun – and even the completeness of the environmental review cannot be assumed given the significant changes in the planned deployment discussed further below. Thus, the “start date” has not yet been established for a project for which funding was granted more than thirty months ago.

Given the long period of delay in implementing this project, the effort by BFN’s current owner to pass off stewardship of this project to another service provider ought not to go unscrutinized. The proposed transaction appears to be simply an effort to sell the right to CASF grant funds at a discount, and based on a plan to reduce underlying costs through implementation of a fundamentally different network architecture than originally approved. Moreover, the legal landscape has also changed significantly since the award of the 2015 grant to BFN. Last fall, Governor Brown signed into law significant changes to the statute governing the CASF, which included new requirements for entities seeking funding. New Section 281(f)(5) requires that projects eligible for grant awards must not only deploy infrastructure capable of providing

³ SBB and Colfax can provide upon request documentation of the service changes affecting these areas. Given the fact that neither company was served with the Advice Letter, and learned of it only just a few days ago through local media reports, there was insufficient time to prepare comparative maps for purposes of this filing.

⁴ *Id.*

⁵ *Id.* at 2.

⁶ See Liz Kellar, “Spiral Internet’s High-speed Fiber Optic Network Sees More Delays,” *The Union* (Sept. 13, 2017), available at <https://www.theunion.com/news/local-news/spiral-internets-high-speed-fiber-optic-network-sees-more-delays/#> (last visited July 10, 2018), and appended hereto as Attachment 2 (“‘In the first area, 20 percent of the households have signed up (approximately 580), which is amazing.’ Those customers all have put down a refundable \$119 deposit to have service brought to their house; that deposit goes to pay for the first month of service, Paul said.”)

⁷ See CPUC Resolution T-17495 at 7 (issued Dec. 7, 2015).

⁸ See *id.* at 19.



broadband access at speeds of a minimum of 10 Mbps downstream and 1 Mbps upstream to unserved households in census blocks where no provider offers access at speeds of 6 Mbps downstream and 1 Mbps upstream, but also that all or a significant portion of the project will deploy last-mile infrastructure to provide service to *unserved* households. As the vast majority of households that would receive access to new service via the CASF-funded BFN project already have access to one or more service providers offering at least 6 Mbps downstream and 1 Mbps upstream service, BFN's long-delayed proposal would not meet this new criterion. Inasmuch as Race would be starting this project virtually from scratch, with only environmental review completed, there is every reason to apply the new standard to its substantially revamped proposal.

As noted above, Race proposes to make material changes in the funded network. BFN's approved grant represented that the fiber would be installed underground. In the Advice Letter, however, "using primarily *aerial delivery* on existing poles in existing rights-of-ways, Race intends for BFN to deliver broadband and IP-enabled voice services at the promised speeds and rates to the *same project area and number of households* of the Bright Fiber project."⁹ But Race provides no details, network design or cost estimates to support how the \$16 million would be used or whether that amount should be reduced based on lower deployment costs and/or the smaller subsidized area. It also fails to explain changes to consumer expectations – will consumers, especially those that have paid deposits, be willing to accept an aerial drop instead of an underground connection? Without this information, the CPUC cannot apply any financial rigor or assure accountability for the project, which to date has shown little demonstrable progress. It would be extremely careless and contrary to CPUC's stewardship of grant funds for CPUC to simply let the 40-day automatic approval period expire without CPUC conducting the same level of scrutiny it gave to BFN's initial grant proposal.¹⁰

As it currently stands, failure to suspend the Tier 2 Advice Letter to allow the transfer to be consummated would, at best, be anti-competitive because the grant funds would be used to overbuild networks that SBB, ColfaxNet and other providers operate. Moreover, the passage of more than thirty months without any construction or active customers' demands a re-assessment of the competitive environment that has evolved within that time period, particularly in light of the recent changes to the legal requirements governing this program.

To the extent the parties choose to proceed with the transaction, Race should be required to cure its material omission and submit a modified grant application that accounts for the expansion of broadband networks in the intervening time and changes to the planned network design. CPUC should then review the revised proposal and determine whether lower costs and service to a smaller area warrant a reduction in the grant amount.

⁹ *Id.* (emphases added).

¹⁰ In addition, although the parties note that "BFN has no voice customers at present" and there is therefore "no customer base to transfer or notify as to the BFN CPCN" (Advice Letter at 2), the question remains whether the hundreds of households that have purportedly made \$100+ deposits against future service are entitled to notice and an opportunity to participate in the CPUC's consideration of the substantial changes in the BFN proposal.

LS

Communications Division, CPUC

July 10, 2018

Page 5

Please contact undersigned counsel if there are any questions concerning this matter.

Respectfully submitted,

/s/ Stephen E. Coran

Stephen E. Coran

/s/ David S. Keir

David S. Keir

Enclosures

cc: Rachelle Chong
Raul Alcaraz
John Paul
Cynthia Walker
Nick Zanjani

ATTACHMENT 1

Spiral Internet's high-speed fiber optic network still in limbo

February 4, 2018

As long ago as 2009, Spiral Internet CEO John Paul was touting broadband Internet service across Nevada County in the hopes of receiving federal funding.

Almost 10 years later, despite millions in state and private funding, the project remains more of a concept than reality, with questions about leadership changes and lack of progress.

Last May, Paul said the company's ambitious high-speed fiber optic network project had jumped all its financial hurdles and would begin construction in the summer on the first stage — a 26-square-mile area that includes about 2,900 homes and 340 businesses around Highway 174 and Dog Bar Road — with the first homes online by fall.

Fall came and went, however.

In September, Paul told The Union that Spiral was ready to begin network design (<https://www.theunion.com/news/local-news/spiral-internets-high-speed-fiber-optic-network-sees-more-delays/>) — the plans that will go to the county and city of Grass Valley in order to get permitting — and should be done with that phase within a few months.

When asked about the progress of the project last week, however, Paul said he was "hunkered down" with the network design.

Paul said the project continues to move forward, pointing to "key aspects" that include completing the extensive CEQA environmental report, which led to a CPUC-approved negative declaration in June.

"Among our current undertakings is completing the network design, then permitting with Nevada County and Caltrans," he said.

MORE FUNDING REQUESTS PENDING

In October, Gov. Jerry Brown signed Assembly Bill 1665, known as Internet for All, allocating \$330 million to expand broadband internet infrastructure into rural communities (<https://www.theunion.com/news/local-news/internet-for-all-bill-funding-broadband-projects-like-spiral-signed-into-law/>). The fund provides grants for rural broadband projects and is the source of Spiral's \$16.2 million grant — what Paul has called its first phase of funding.

The law took effect Jan. 1 with new criteria for implementation, Paul said, adding that Spiral is waiting for final guidelines to be approved.

"We will then begin writing additional grant applications for western Nevada County," he said.

Paul said the project has not tapped into any of the nearly \$17 million in state funds that was granted in late 2015.

"Grant project expenses are billed to the California Public Utilities Commission when we complete project segments," he said. "Spiral has neither billed nor received monies from the grant or other funding sources, but expects to do so as we prepare for ground breaking this year."

DEPARTURE OF COMPANY'S CTO

Chief Technical Officer Michael P. Anderson recently issued a written statement that he had "ceased any association with Bright Fiber, including in any volunteer capacity," as of Dec. 6.

The statement said Anderson, along with Andrew Wilkinson and others he would not name, had been working in a volunteer capacity for Bright Fiber Inc., doing business as Spiral Internet. He stressed that they were not involved in Spiral's DSL business and were never employees or board members. Anderson said he began volunteering on the broadband project in April 2014 and helped put the project together, but declined to comment on the split beyond his prepared statement.

According to Paul, Anderson took on the role of CTO after the death of Paul's former partner, Chip Carman.

7/10/2018

Spiral Internet's high-speed fiber optic network still in limbo | TheUnion.com

"I knew Spiral needed someone to fill his technical position," Paul said. "I asked Michael Anderson if he would take on the role of CTO after the project broke ground."

According to Paul, Anderson went to numerous trade show conferences across the country over the past four years to get up to speed on the fiber optic industry.

"Recently, he decided to no longer be affiliated with the project," Paul said. "We will be moving forward with another person to fill those job requirements."

To contact Staff Writer Liz Kellar, email lkellar@theunion.com (<mailto:lkellar@theunion.com>) or call 530-477-4236.

1 Comment

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Jennai Patterson

Sounds like it's time for someone to go in and audit everything that has been done.

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Facebook Comments Plugin

ATTACHMENT 2

Spiral Internet's high-speed fiber optic network sees more delays

September 13, 2017

Nevada County residents hoping for reliable high-speed internet access will have to defer that dream a little bit longer.

Spiral Internet CEO John Paul admits it continues to be a moving target, but his company's high-speed fiber optic network project — once projected to break ground this spring — now is likely to get underway next year.

Paul declined to provide a specific timeline for the network, which has been touted as providing an "instantaneous" gigabit internet connection, saying everything has taken longer than expected, including funding and the environmental review process.

"Nothing happens in a timely way, so I am reluctant to put any dates out," he said. "Our hope is we can announce those (dates) soon."

Loma Rica resident Ken Zuckerman signed up early to join the network and is a "champion" tasked with recruiting his neighbors.

"We're very anxiously awaiting this service," Zuckerman said. "It sounds like they're getting there."

A large part of his frustration is due to what he says is increasingly poor service from his current provider, AT&T.

"AT&T has stopped doing service in this area," he said. "It's been going straight downhill."

The first stage of the project, a 26-square-mile area that includes about 2,900 homes and 340 businesses around Highway 174 and Dog Bar Road, would be complete two years after breaking ground (<https://www.theunion.com/news/spiral-internet-plans-for-summer-ground-breaking-on-high-speed-project/>), Paul has said.

"What's (happening) right now is we finished, over this last year and some months, we completed our environmental report, which was pretty extensive," he said. "In June, we were awarded a categorical exemption from the California Environmental Quality Act, which is a big deal. That means we don't have to do a full-blown report."

As Paul explains it, Spiral knows what critical areas of habitat it has to avoid, with only a few of those along the roads that will be used.

"Now we can begin network design, the plans that will go to the county and city of Grass Valley in order for us to get permitting," he said. "We are going to give them exactly what they want, so it is taking longer."

Paul estimated that those project plans should be done in a few months, saying, "We couldn't start the design until we knew what the environmental process would be for building it."

As soon as the plans are wrapped up, Spiral will be able to announce its schedule to break ground.

"We hope to start as soon as we get the go-ahead," Paul said, adding that much will depend on the weather and how wet a winter Nevada County will face.

"We are a startup enterprise," he said. "It would be different if we were continuing an existing network. ... We're building an infrastructure that will be around 50 to 100 years; it's definitely been a learning curve for us."

Until Spiral gets to the ground-breaking stage, Paul said, it is impossible to provide an accurate schedule.

"I can say that Crown Point Circle will be the first part we will build to," he said.

One positive that Paul points to is the commitment from potential customers, after Spiral created the "Neighborhood Champions" program.

"That sign-up process has been fantastic," he said. "In the first area, 20 percent of the households have signed up (approximately 580), which is amazing."

Those customers all have put down a refundable \$119 deposit to have service brought to their house; that deposit goes to pay for the first month of service, Paul said.

Paul said he wants to encourage people to go to Spiral's website to express their interest and to keep track of the project's progress at <http://www.spiral.com/fiber> (<https://spiral.servicezones.net/ServiceAreaA>).

"We will be applying for the funds for next two phases simultaneously, in January," he said.

Paul has said he'd like all three service areas, which include some 12,000 homes, connected to the high-speed service within five years.

"The next part of the process will go much faster," he said. "That first grant was delayed a while."

Almost \$17 million came from state funds granted in late 2015; Spiral this spring secured almost \$12 million in private funding.

Spiral customer Tony Lauria said that while he is disappointed at the delay, he recognizes those hurdles have hampered progress.

"Certainly I would love to have good internet, which is not available to me right now," he said. "But it is what it is. This is our best chance, and I really believe in John Paul's integrity."

To contact Staff Writer Liz Kellar, email lkellar@theunion.com (<mailto:lkellar@theunion.com>) or call 530-477-4236.

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July 10, 2018

Rachelle Chong

PAL Coordinator

Law Offices of Rachelle Chong

Telecommunications Division

345 West Portal Avenue, Suite 110

California Public Utilities Commission

San Francisco, California 94127

505 Van Ness Avenue

Via [Email: rachelle@chonglaw.net](mailto:rachelle@chonglaw.net)

San Francisco, CA 94102

Re: Race Telecommunications, Inc. (U-7060-C) Tier 2 Advice Letter No. 6 for Approval to Transfer Control of Bright Fiber Network, Inc. (U-7287-C) to Race Telecommunications, Inc

Dear TD PAL Coordinator and Regulatory Counsel Rachelle Chong,

I am writing to urge the Commission and Regulatory Counsel to deny the Advice Letter No. 6, which through a stock purchase agreement will transfer control of Bright Fiber Network, Inc. (Bright Fiber) to Race Telecommunications Inc. (Race).

Consumers in Nevada County will likely be harmed if this action is approved by the Commission. This appears to be a now all-too-common “bait-and-switch” maneuver, whereby an underground fiber optic infrastructure is first approved (with broad consumer support and public grant funding) and then permitted to change to a new project design that seemingly depends on heavy telecommunications wires, boxes, and antennae mounted on already overloaded power poles in fire-prone areas.

In 2015 grant funding from state public funds of more than \$16 million was given to Bright Fiber to facilitate high-speed internet service with an UNDERGROUND FIBER OPTIC system, which is the most secure, private, and reliable infrastructure for delivering high-speed internet services to consumers. This proposed stock purchase agreement is unduly financially discriminatory in that Bright Fiber has already charged the public for something that will not be built; and then the public will be charged again for a different project design that is inferior and dangerous (wireless on poles).

The assertion that Bright Fiber Network has no customers and therefore does not need any more public notice than the 3 days required for the CPUC filing is itself questionable. In fact, an unrevealed large number of would-be customers in Nevada County have already paid Bright Fiber the cost of their first month's bill for this service (\$119). Such an offer has repeatedly been made to my own household by Bright Fiber (or Spiral Internet, John Paul's related internet services business) of Nevada City. A seeming large proportion of those would-be customers who have heard of this sale and the changes Race wants to make to primarily above-ground "aerial delivery on existing poles in existing rights-of-ways" (as reported in a local newspaper article) are unhappy with these proposed changes and are wondering what happened to the funds they paid in over the last several years. At the very least more public notice and a longer period of commentary should be allowed to inform the people of Nevada County and allow them to participate in the deliberations on this proposed change.

The new approach proposed by Race increases their profitability by seemingly switching part of this project to above-ground wireless to be built on existing public power pole infrastructure. But this wireless component introduces significant privacy, security, health, and reliability problems for internet connections and is discriminatory for the customers and residents/businesses affected. It also could be likely to reduce nearby property values. (See the attached document for a select summary and explanation of scientific research on adverse health and environmental effects and property-value reductions of radiant low-frequency wireless installations.) This would appear to take place apart from local governmental review. Please do not allow Race to cut corners at the expense of a community's safety and wellbeing by installing on vertical infrastructure.

It is way too unclear and vague what Race means by switching an unknown portion of this project to its "standard" delivery of a "primarily aerial approach along existing poles and right-of-ways." There are many unanswered questions. Does this mean above-ground fiber-optic lines? Does it mean wireless, low-frequency electromagnetic radiation via antennas? Or something else? Is it subject to change of technologies after initial installation? Could this above-ground installation ultimately lead to a back-door loss of local control over our public rights-of-ways, as has already been seen where this "bait and switch" technique has transpired in various cities across the nation? For example, once installed on poles, are those installations subject to collocation by other providers without typical planning review by local government bodies?

This sort of change in technology (if that is what it is) seems part of the larger pattern that Americans nationally have paid out more than \$400 billion to the telecom industry over the last twenty years for underground fiber optics to every home, with sparse results and no accounting of the funds paid and spent.

Underground fiber optic installation is the most secure, private, and reliable. The citizens of Nevada County deserve that their fiber optics stay underground. Switching to use of power poles

and aging vertical infrastructure in a drought- and fire-prone California is irresponsible. As has been seen during large wildfires of recent years, overburdened power poles create serious fire hazards, and we cannot depend on wireless infrastructure to survive fires. In rural, forested areas like Nevada County, the cost of a single uncontrolled wildfire would greatly outweigh any supposed benefits of this changed proposal.

If Race wants to purchase Bright Fiber and continue to install an all-underground system, that would be beneficial. But the Commission and regulatory counsel should not simply help Race cut corners on costs. Allowing a sale from Bright Fiber to Race may enrich a company that publicly states wireless is quicker and cheaper for them, but it does not serve the best interests the public.

Thank you for your consideration,

Pamela D. Hall

[REDACTED]

Grass Valley, CA 95945

[REDACTED]



COUNTY OF NEVADA COUNTY EXECUTIVE OFFICE

Eric Rood Administrative Center
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Nevada City, CA 95959
(530) 265-7040
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E-MAIL: ceo@co.nevada.ca.us

July 12, 2018

Telecommunications Proposal and Advice Letter Coordinator
Communications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94012

Re: Race Communications, Inc. (U-7060-C)
Tier 2 Advice Letter No. 6
Approval to Transfer Control of Bright Fiber Network, Inc. (U-7287)
Support to Propose Transfer of Control

Dear TD PAL Coordinator:

Pursuant to Section 7.4.1 of General Order 96-B of the California Public Utilities Commission, I, Alison Lehman, Assistant CEO for the County of Nevada, California request that the Communications Division staff accept my late filing supporting the CPUC to approve the proposed transfer of control of Bright Fiber Network, Inc. to Race Communications, Inc.

As the Assistant CEO for Nevada County since 2012, and now the incoming appointed CEO, I have observed and been an active supporter of the progress of deploying broadband networks and advanced communication services throughout Nevada County. Nevada County is situated in a rural area that is in dire need of much better internet access. The expansion, access and usage of broadband networks can have a positive impact on economic development by promoting the diversification of the economy, attracting and retaining high-wage businesses and companies, and increasing the long-term investment in information technology sectors.

The delays in the project due to existing provider challenges and the difficulty in raising the private matching investment funds by Spiral Internet has been frustrating and detrimental to our community's economic development. I was pleased, earlier this year, to hear that this local company was considering offers from existing telecommunications providers to move the Bright Fiber Network Project forward.

I ascertain that the delays of this important project have already been harmful enough for Nevada County, and ask the CPUC to approve the transfer as soon as possible.

The Nevada County Board of Supervisors approved a Resolution this past June in to support and promote local broadband expansion, access and usage in Nevada County.

Best regards,



Alison Lehman
CEO
Nevada County, California

CC
Rick Haffey, County Executive Officer
Nevada County Board of Supervisors



RESOLUTION No. 18-324

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION TO SUPPORT AND PROMOTE LOCAL BROADBAND EXPANSION, ACCESS AND USAGE IN NEVADA COUNTY

WHEREAS, deploying broadband networks and advanced communication services throughout Nevada County will enable continued improvements in community anchor institutions of healthcare, public safety, schools, colleges, libraries, community support organizations, businesses and social-networking for the public interest; and

WHEREAS, a technology-neutral open-access approach to broadband deployment will encourage lower prices, creation of more local consumer choices and a sustainable adoption of broadband service; and

WHEREAS, advanced communication services have become central to the financial health of our County as these services have increased individual worker productivity and connected Nevada County businesses to larger statewide, national and international markets; and

WHEREAS, Nevada County does not have direct access to the lower-cost high-capacity digital transport bandwidth for advanced affordable services that is increasingly available in metropolitan areas; and

WHEREAS, although Nevada County's Web content, e-commerce, video broadcasting and production, and computer software and hardware businesses have placed the County as a desirable high-tech location, in order to continue to retain and attract businesses, further broadband infrastructure and development is needed across Nevada County; and

WHEREAS, the expansion, access and usage of broadband networks can have a positive impact on economic development by promoting the diversification of the economy, attracting and retaining high-wage businesses and companies, and increasing the long-term investment in information technology sectors; and

WHEREAS, the City of Grass Valley, City of Nevada City and County of Nevada have expressed a joint desire for a continued partnership to promote the development of Broadband in Nevada County; and

WHEREAS, the increased local use of broadband networks and advanced communication services will enhance government and other public operations through telemedicine for healthcare, distance learning for education, and better coordination in the areas of public safety, as well as facilitate access for the aged, low-income, and unemployed for educational and employment opportunities; and

WHEREAS, in June 2018, the City of Grass Valley, City of Nevada City and County of Nevada are each adopting resolutions in support of expanding the availability of Broadband in Nevada County.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Supervisors of the County of Nevada, State of California, hereby supports and promotes the expansion, access and usage of broadband networks and advanced communication services throughout Nevada County to positively impact areas of healthcare, public safety, schools, colleges, libraries, community support organizations, businesses, social-networking, and economic development.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 26th day of June 2018, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson
Noes: None.
Absent: None.
Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Edward Scofield, Chair

COUNTY OF NEVADA

STATE OF CALIFORNIA

BOARD OF SUPERVISORS



Heidi Hall

Supervisor, 1st District

Email: heidi.hall@co.nevada.ca.us

July 12, 2018

Telecommunications Proposal and Advice Letter Coordinator
Communications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94012

**Re: Race Communications, Inc. (U-7060-C)
Tier 2 Advice Letter No. 6
Approval to Transfer Control of Bright Fiber Network, Inc. (U-7287)
Support to Propose Transfer of Control**

Dear TD PAL Coordinator:

Pursuant to Section 7.4.1 of General Order 96-B of the California Public Utilities Commission, I would like to request that the Communications Division staff accept my late filing supporting the CPUC to approve the proposed transfer of control of Bright Fiber Network, Inc. to Race Communications, Inc.

My constituents are seriously impacted by the severe lack of broadband access and would benefit from the ability of Race Communications, Inc. to provide fast and reliable internet access. I regularly receive calls and emails about sub-standard internet service or service that has been eliminated.

My District has very limited cable internet service (and in the case of the project area, no cable service); limited DSL service due to the District's split between AT&T's "end of the line" network of DSL plus Verizon's (now Frontier's) non-deployment of DSL; and only some service from fixed wireless providers due to the terrain and tall tree growth. The Bright Fiber Network Project area includes designated high areas of need that were identified by the Gold Country Broadband Consortium.

The transfer of the project to Race Communications, Inc. would greatly benefit Nevada County and District I without taking business from other entities which have been unable or unwilling to provide this same service to this area.

I encourage the California Public Utilities Commission Communications Division staff to act in approval of this transfer, while addressing any other valid concerns raised by the public.

Sincerely,

Heidi Hall

District I Supervisor

Dear CPUC Telecommunications Division PAL Coordinator,

I am writing to express my concerns regarding Tier 2 Advice Letter No. 6., which was published in the local Union newspaper on Saturday, July 7th, 2018, 17 days after the filing of this advice letter with the CPUC on June 20th. This news article in the Union newspaper was the first public notice of the existence of the advice letter, allowing only 4 days for the public to review the content and make comments. This timeframe is wholly inadequate.

I am not protesting Race Communications acquiring Bright Fiber Network (BFN) per se. Race Communications has the qualifications, expertise, and financial capability to break ground and complete this project. My concerns center around issues and intentions raised in the advice letter, as noted below:

- It is not true that "the transaction does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment pursuant to the California Environmental Quality Act (CEQA) Guideline 15378." The network will take an entirely different path on poles than was given a CEQA exemption on May 11, 2017 (Resolution T-17565) which utilizes an underground route. While it is possible that the environmental change will be negligible, it is anti-competitive to allow for this change in construction type to go without CEQA review, which any other fiber construction company would need to undertake during a normal sales transaction process.
- Individual deposits of \$119 were collected from prospective customers in the project area from December, 2016 until the present day. It is not known what the total is of these deposits (the Union newspaper has cited the number of ~\$30K collected as of February, 2017), but it is unclear in the advice letter how these deposits will be handled going forward. Since this money was collected by Spiral Internet, and "the Spiral Business" (currently a DBA of Bright Fiber) is being transferred to an affiliate company before the BFN sale to Race Communications is complete, it is unclear in the advice letter where these funds will ultimately reside. Adding to the confusion is the statement that "there is no customer base" for BFN, though technically this is true since the case can be made that the deposits were made for Internet services only and not future voice/telecommunications under BFN's CPCN. However, this confusion still needs to be resolved.
- As noted above, the notice period has been completely inadequate. Why didn't Race and BFN inform the public about Tier 2 Advice Letter No. 6 when it was posted on June 20, 2018? Also, there is a typographical error in the email

address for notification of protest to the CPUC, TD_PAL@cpuc.ca.gov, which may cause some comments to not reach the CPUC.

- The advice letter claims that Race Communications will "fully comply with all the requirements of the CASF grant award" to build the network as described in CPUC Resolution T-17495, and yet they are also planning to make substantial changes to the construction type and fiber technology, putting the fiber on poles instead of going underground and presumably using G-PON instead of Active Ethernet, though this last point is not entirely clear. Both Active Ethernet and underground construction are specifically cited in the grant, and during debate before the vote on the resolution on December 3, 2015, the 4 CPUC commissioners who voted to approve the grant were very clear that they were voting in favor due to these construction characteristics for the reason of building a robust network that would be resistant to weather and fire, increasing public safety.
- The grant specifies a per household connection subsidy of \$8,324, compared to "previously approved last-mile applications [of] \$3,531 per household." This reflects the higher cost of putting fiber underground vs. placing it on poles. Nowhere in the advice letter is it specified whether Race Communications intends to decrease the total cost of the project or adjust the number of connections higher to accommodate this change. At the very least, new proformas should be made available to the CPUC to reflect this significant change to the project's financial structure. The existing rate structure of \$119 per month per customer will be **unduly discriminatory** if it is not adjusted as a result of the lower household subsidy cost.

I would like to reiterate that I am not protesting in general the sale of BFN to Race Communications. In fact, I welcome Race Communications to the Nevada County community and will do everything I can to help them make their project successful. My concern and hope is that by making several aspects of the project more clear to the public as specified above, Race Communications will have a better product and a more satisfied Nevada County community, which will be a benefit to Race Communications in the long term.

Sincerely Yours,

Michael P. Anderson

President
Clientworks, Inc.
Nevada City, CA 95959

CPUC:

I oppose the stock sale from Bright Fiber to Race if Race is going to cut corners and have rights to install wireless antennas on existing poles in community owned right of ways. This would put heavy equipment on already overloaded power poles in fire-prone areas. In Sonoma and Napa counties above-ground wireless systems burned up cell towers and power poles. In the Malibu fires CPUC fined SCE millions for fires attributed to overburdened telecom power poles. Nevada County is in fire prone forested area.

What ,pray tell, has happened to the \$400 billion already paid out by taxpayers to the telecom industry to install underground fiber optics? We need responsible, independent accounting. In relation to Bright Fiber specifically, they already received public grant funds of over \$16 million for **underground fiber optic** system which is the most secure, private and reliable infrastructure for delivering high-speed internet service. They haven't delivered in spite of getting the funds, and now they're selling off to Race.

Supposedly the CPUC acts in behalf of public interest and is not in the pocket of the telecom companies. Therefore, I urge you to rule in behalf of requiring the telecom company to install an underground fiber optic system which is more secure, safe, private and reliable than loading up poles with antennas in the right of way to increase profits for a telecom company.

Paula Orloff
Nevada City, Calif. 95959

I am writing to request that you extend the deadline concerning comment on this matter (Tier 2 Advice Letter No. 6). The public received notice of this comment period only last Saturday, with publication of an article in the Nevada City Union newspaper, and I learned of this only today. Please extend the deadline for another 10-14 days so that the public has time to better understand and respond to the details in the Letter. Thank you.

Paul N. Anderson



Los Altos, CA 94024

July 10, 2018

PAL Coordinator
Telecommunications Division
California Public Utilities
Commission 505 Van Ness
Avenue
San Francisco, CA 94102

Re: Letter in Opposition to Stock Purchase of Bright Fiber by Race Telecommunications

Dear TD PAL Coordinator,

We would like to urge the Commission not approve the Advice Letter No. 6, which through a stock purchase agreement will transfer control of Bright Fiber Network, Inc. (BFN) to Race Telecommunications Inc. (Race). We have just been informed of this situation and are very disturbed that what we in Nevada County have been promised, expected and essentially paid for will be changed completely.

Consumers in Nevada County will be hurt if this action is approved by the Commission. This is not what we expected - when fiber optic infrastructure is first approved (with broad consumer support and public grant funding) and then allowed through a sale to change overnight to a project that depends on heavy telecommunications wires and boxes mounted on already overloaded power poles in fire-prone areas.

The whole idea of changing from underground installation of a fiber optic system in heavily wooded areas with well-documented fire return intervals to continuing to add fiber to existing overhead poles and wires is ridiculous. This was supposed to be a clean, safe underground installation. We currently live in a community with underground utilities and it is far superior to the old-fashioned system of myriad wires and poles.

Grant funding from public funds of more than \$16 million was given to Bright Fiber to facilitate highspeed internet service with underground FIBER OPTIC system, which is the most secure, private and reliable infrastructure for delivering high-speed internet services to consumers.

The new approach proposed by Race maximizes their profitability by switching to wireless to be built on existing public power pole infrastructure. But this wireless component introduces significant privacy, security, and reliability problems for internet connections. This is not what the community wanted or envisioned.

Fire is one of the hazards in California and must be taken into consideration. Overburdened power poles create serious fire hazards and we cannot depend on wireless infrastructure to survive fires. California has experienced the terrible consequence of wildland fires in Napa and Sonoma counties. The CPUC itself has fined SCE many millions of dollars for the Malibu fires which were attributed to power poles overburdened by telecommunications.

Because there has been a takeover of one company (Bright Fiber) by another (Race) does not mean that the agreements that the original company makes can be completely negated. The Commission should not help the new company reduce its costs on the backs of the consumer. Allowing a sale from Bright Fiber to Race simply enriches a company who publicly states that wireless is quicker and cheaper for them. It is not better for the public.

Thank you for your attention to this matter.

Barbara and Don Rivenes



Grass Valley CA 95945

July 6, 2018

Rachelle Chong
Law Offices of Rachelle Chong
345 West Portal Avenue, Suite 110
San Francisco, California 94127
Via Email: rachelle@chonglaw.net

PAL Coordinator
Telecommunications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Letter in Opposition to Stock Purchase of Bright Fiber by Race Telecommunications

Dear TD PAL Coordinator,

The Commission should not approve the Advice Letter No. 6, which through a stock purchase agreement will transfer control of Bright Fiber Network, Inc. (BFN) to Race Telecommunications Inc. (Race).

Consumers in Nevada County will be hurt if this action is approved by the Commission. It is a bait-and-switch problem when fiber optic infrastructure is first approved (with broad consumer support and public grant funding) and then permitted to change to a new project design that depends on heavy telecommunications wires and boxes mounted on already overloaded power poles in fire-prone areas.

Grant funding from public funds of more than \$16 million was given to Bright Fiber to facilitate high-speed internet service with underground FIBER OPTIC system, which is the most secure, private and reliable infrastructure for delivering high-speed internet services to consumers. This proposed stock purchase agreement is unduly discriminatory in that Bright Fiber has already charged the public for something that will not be built; and then the public will be charged again for a different project design that is inferior and dangerous. It is like Bright Fiber simply got into the game to resell and make a profit on the transaction, leaving the public hanging.

The new approach proposed by Race maximizes their profitability by switching to wireless to be built on existing public power pole infrastructure. But this wireless component introduces significant privacy, security, and reliability problems for internet connections.

Worse, overburdened power poles create serious fire hazards and we cannot depend on wireless infrastructure to survive fires. California has experienced the terrible consequence of wildland fires in Napa and Sonoma counties where above-ground wireless communications burned up (77 cell towers and countless power poles with wireless infrastructure). The CPUC itself has fined SCE many millions of dollars for the Malibu fires which were attributed to power poles overburdened by telecommunications. In areas like Nevada County where homes are widely interspersed in oak woodland and conifer forested hills, the cost of a single wildfire would greatly outweigh any benefits of this proposal.

If Race wants to buy Bright Fiber and install an all-underground system, that would be beneficial. But the Commission should not help Race cut corners on costs. Allowing a sale from Bright Fiber to Race simply enriches a company who publicly states that wireless is quicker and cheaper for them. It is not better for the public.

Thank you for your consideration.

Cindy Sage, Owner, Sage Associates

[REDACTED]
Grass Valley (Nevada County), California 95949
[REDACTED]

Rachelle Chong

PAL Coordinator

Law Offices of Rachelle Chong

Telecommunications Division

345 West Portal Avenue, Suite 110
Commission

California Public Utilities

San Francisco, California 94127

505 Van Ness Avenue

Via Email: rachelle@chonglaw.net

San Francisco, CA 94102

Re: Race Telecommunications, Inc. (U-7060-C) Tier 2 Advice Letter No. 6 for Approval to Transfer Control of Bright Fiber Network, Inc. (U-7287-C) to Race Telecommunications, Inc

Dear TD PAL Coordinator and Regulatory Counsel Rachelle Chong,

I am the former mayor, current city council member of Nevada City, County of Nevada. I am writing to ask that you deny the Advice Letter No. 6, which proposes to transfer control of Bright Fiber Network, Inc. (Bright Fiber) to Race Telecommunications, Inc. (Race).

Today, nearly \$17 million has already been paid to Bright Fiber by taxpayer money via the California Advance Service Fund (CASF), to provide high speed underground fiber optic for underserved rural Nevada County, California. The intention has been to ultimately serve approximately 1941 households in 21 square miles. The CPUC awarded the grant in 2015 specifically for this entity and this particular project. They stated that Ethernet over single-mode fiber underground was chosen for its resiliency.

Consumers in Nevada County will likely be harmed if the Commission approves this transfer. This appears to be a now all-too-common "bait-and-switch" maneuver, whereby an underground fiber optic infrastructure is first approved (with broad consumer support and public grant funding) and then permitted to change to a new project design that seemingly depends on heavy telecommunications wires, boxes, and antennae mounted on already overloaded power poles in fire-prone areas.

In addition, the assertion that Bright Fiber Network has no customers and therefore does not need any more public notice than the 3 days required for the CPUC filing is itself very questionable. In fact, an unrevealed large number of county residents in Nevada County have already paid Bright Fiber the cost of their first month's bill for this

service (\$119). Just because they did not receive said services does not mean they weren't customers.

The CPUC must also understand this is financially discriminatory for the people who have paid once, twice perhaps and now will pay again for an inferior and dangerous new infrastructure design (wireless on poles). Do they know they have already paid for this service through their ratepayer fees and US subsidies?

A great number of Bright Fiber customers (let's call them what they are) are very unhappy regarding Race's intention to install primarily above-ground "aerial delivery on existing poles in existing rights-of-ways" and are wondering what happened to the funds they paid over the course of the last few years.

These are most definitely customers of Bright Fiber and at the very least we should expect earlier public notice and a longer period of public comment -- ultimately allowing Nevada County residents their due rights to participate in the deliberations of this proposed change.

It is stated in the CPUC Resolution T-17495 Communications Division Resolution December 7, 2015, which approved funding of the \$16 million project, that "Bright Fiber contends underground deployment is essential because of weather factors, tree density, the obsolescence of existing poles and unorthodox pole attachments (e.g. wires attached to trees) for existing wireline networks in the area."

It is also noted in the Resolution:

- Fiber optic networks are advantageous as they are much less susceptible to congestion due to each household having a dedicated link
- • Fiber optic To The Premises (FTTP) is not subject to terrain variability- trees and hills- thus is the best and most equitable method for delivery of broadband Internet.
- • Limited coverage for line of sight transmission towers is described in the proposal if wireless networks used, indicating only partial and unequal coverage if installed.
- • Bright Fiber has committed to serve every household in the project area with fiber optic

Underground fiber optic broadband systems are safer, more private, and more reliable than wireless in a fire. The issue with the transfer of sale is that it enables Bright Fiber systems to use wireless networks instead of fiber optic for broadband expansion. In the last several years, telecommunications companies have conveniently switched their fiber optic business strategy to propose wireless communications systems, with cell antenna and accessory equipment mounted on utility poles, as these are cheaper and faster to erect than fiber optic cable. They are however inferior in safety, reliability and quality, especially in rural areas, that still depend on our critical landlines, which should also be preserved as a backup.

Race states it will use its standard approach of "aerial delivery on existing poles in existing rights-of-ways." This is a slippery slope that could ultimately lead to loss of local control over our public rights-of-ways as we have already seen transpiring in cities across the nation.

Wireless systems are now being scrutinized as a much less secure, less private and less energy efficient communication network. Science is also clearly identifying wireless devices and infrastructure as an emerging threat to both public health as well as ecosystems.

Lastly, the original CEQA review approving the original CASF Bright Fiber Project would be no longer valid, given the intended change in the project by Race to "Using the standard Race construction approach using primarily aerial delivery on existing poles in existing rights-of-ways . . ." This changes the primary technology of the project from a benign underground fiber optic approach to an apparently above-ground low-frequency electromagnetic radiation antennae approach. The attachment to my previous email cites a variety of scientific evidence that this above-ground technology is harmful to wildlife and the natural environment and possibly also to the authentic appearance of national historic preservation sites in Nevada County.

Public grant funds are to be used as originally agreed upon. They are not a give away to industry. This proposed stock Bright Fiber/Race purchase agreement is unduly financially discriminatory as the public has already paid Bright Fiber for services that will not be built and then will be charged again for an entirely different sub-optimal and hazardous system that is wireless. This will provide only partial coverage and thus is discriminatory. This transfer could ultimately be used as a precedent, leading to loss of local control and oversight by cities/counties regarding placement of cell antenna on utility poles, rents charged and suitability of location. This, alone, is a most dangerous position for our community. As an elected official this is what I am most concerned about. How can such an important item such as loss of local control of public rights-of-ways not have a public comments period...at the very least?

Ultimately, this transfer will result in a major change in the original contracted business plan and thus appears to violate the original Commission Resolution. It will be also be discriminatory to the underserved community who will be provided only partial service if wireless systems were to be instituted.

This transfer should be denied. If Race wishes to continue developing broadband only through underground fiber optic in this area then this should be clearly written in the agreement and not subject to change without a full public hearing.

Respectfully,

Reinette Senum

Nevada City City Council Member

July 10, 2018

Telecommunications Proposal and Advice Letter Coordinator (PAL)
Communications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear CPUC Telecommunications Division PAL Coordinator,

I am writing regarding the Tier 2 Advice Letter No. 6., which was published in the local Union newspaper on Saturday, July 7th, 2018, 17 days after the filing of this advice letter with the CPUC on June 20th. This article in the Union newspaper was the first public notice of the existence of the advice letter, allowing only 4 days for the public to make comments. This is not enough time for the community to comment on the letter.

I hope that the CPUC will allow more time for the review and comments on the advice letter. By allowing for more time, the community will be able to fully understand the proposed transfer and what it means for this important project in Nevada County. This review will allow Race Communications to have a better product and a more satisfied Nevada County community.

Sincerely,
Andrew Collins-Anderson

Dear CPUC Telecommunications Division PAL Coordinator,

I am writing to express my concern over the short comment period allowed regarding the Tier 2 Advice Letter No. 6., which was published in the local Union newspaper on Saturday, July 7th, 2018, 17 days after the filing of this advice letter with the CPUC on June 20th. Allowing only 4 days from public dissemination of the advice letter is not enough time to fully study and understand the ramifications of said letter.

As a potential subscriber who has made the \$119 deposit in anticipation of receiving gigabit inter service, I am fully in support of Race Communications, with a proven track record of providing internet access in areas such as ours, taking over the grant and project.

I do have some concerns which do not seem to be addressed in the advice letter.

- Will Race provide an active fiber network? If we can get a gigabit connection I will be doing backups exceeding one terabyte to a cloud server. On a passive connection this may take a long time depending upon the other traffic on the shared link. And, will the connection provided by Race be a symmetric network?
- I have been told that Comcast protested our road and street as being in their service area and as a result houses along my road were excluded from the grant. Comcast does not offer service in my area. I have tried every year for the past six years to request service from Comcast only to be told that they do not provide service to my area.
- I also understand that SmarterBroadband may be protesting the advice letter. I have previously applied to Smarter Broadband and was told that there were too many trees between my property and the access point. In addition, SmarterBroadband's speeds are very slow and their service comes with data caps which I would exceed with one backup to the cloud.
- Looking at Race Communications' rates, they are half what Spiral/Bright Fiber were proposing for the same speed. It is not clear what the subscriber rate would be if Race Communications takes over the project.
- As far as the aerial vs buried fiber, I In this area I am not sure that one method will be the best for all locations.. I do think that the fiber should be buried along roadways but could be aerial from the roadway to the subscriber premises. Particularly in this rural area, going underground could run into problems. The 3 houses on our private road would require tunneling under multiple driveways and avoiding buried water and power lines to our wells. There is a direct run from my property to the main road via power poles which would avoid the problems of burial.
- Again, I ask for a longer comment period so that I may study both the original resolution as well as the advice letter.

Sincerely,

David C. White
Independent Network/Systems Consultant

[REDACTED]
Grass Valley, CA 95945

[REDACTED]



July 12, 2018

Telecommunications Proposal and Advice Letter Coordinator
Communications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94012

Re: Race Communications, Inc. (U-7060-C)
Tier 2 Advice Letter No. 6
Approval to Transfer Control of Bright Fiber Network, Inc. (U-7287)
Support to Proposed Transfer of Control

Dear TD PAL Coordinator:

Pursuant to Section 7.4.1 of General Order 96-B of the California Public Utilities Commission, I, Kristin York, Vice President of Sierra Business Council, administrator for the Gold Country Broadband Consortium, request that the Communications Division staff accept my late filing supporting the CPUC to approve the proposed transfer of control of Bright Fiber Network, Inc. to Race Communications, Inc.

Sierra Business Council has been working with Spiral Internet on the Bright Fiber Network Project for the past four years. We have worked with Spiral through the challenges of finding a committed investor to provide the required matching funds for the project. We are fully supportive of the Race Communications offer because they are a proven entity with financial capacity and an extensive background in building, maintaining, and operating gigabit fiber optic networks in rural California. This expertise coupled with the pent up demand for high-speed internet and community support generated by Spiral Internet will move construction forward in a timely manner.

We understand the individual concerns regarding the change in construction type from underground to a hybrid project of both underground and aerial. This item can easily be addressed with revised pro-formas. The topography of the project provides unique challenges and we believe that based on Race Communications' exemplary track record, the project will be completed with the utmost speed and quality.

We further understand the concerns of wireless providers in the area. This fiber project would not preclude competition from existing wireless providers and we do not believe this proposed stock purchase agreement is anti-competitive or unduly discriminatory. Each household has the opportunity to be connected or not during the initial construction. Nevada County is a geographically complex rural area that is in dire need of much better internet access and Race Communications has the experience and capital to ensure the success of this project.



Lack of high speed broadband in Nevada County is a detriment to social equity and economic growth. The Consortium's work is currently focused on how to leverage the Bright Fiber Network Project to serve additional underserved/un-served areas and neighborhoods that will benefit most from economic development, education and telehealth opportunities. We urge the CPUC to work through any concerns as soon as possible so that Race Communications can deliver this long awaited community asset.

Best regards,

A handwritten signature in blue ink, appearing to read "Kristin York", with a long horizontal flourish extending to the right.

Kristin York
Vice President, Sierra Business Council
Gold Country Broadband Consortium

Cc: Rachelle Chong, Regulatory Counsel
Raul Alcaraz, Race Telecommunications
John Paul, Bright Fiber Network Inc