

VIA E-MAIL

May 24, 2016

William Goedecke
Public Utilities Regulatory Analyst
California Public Utilities Commission
Broadband, Policy and Analysis

**RE: Charter Communication Response to Housing Authority of the
County of San Bernardino, Rebuttal on Public Housing
Infrastructure Grant Application ("Application")**

Dear Mr. Goedecke:

Charter has clearly demonstrated that it has wired and makes available robust broadband service to all of the Housing Authority of the County of San Bernardino (HACSB) locations included in Resolution T 17515, namely 1470 Lynwood and 4181 North E Street in San Bernardino (the "Properties"). We provide our response and further challenge to the HACSB rebuttal.

The Properties are neither unserved nor underserved, and the units at the various Properties are currently "wired." Charter has already provided redacted copies of customer bills for the complex which prove that the Properties are fully wired and served. Charter's published internet speed for the area, which includes the Properties, starts at 60 Mbps download and 4 Mbps upload. Charter surveyed the speed levels at each complex and submitted the test results with our challenge to the Application. As documented in our initial response, Charter's actual download and upload speeds meet or exceed what's offered in the market.

The Commission is required to follow both its enabling statutes and its own rules and decisions as set forth in D. 12-02-015, and D. 14-12-039. The Commission has defined "unserved" as "an area that is not served by any form of wireline or wireless facilities-based broadband, such that Internet connectivity is available only through dial-up service." D. 12-02-015 at 13. "Underserved" is defined as "an area where broadband is available, but no wireline or wireless facilities-based provider offers service at advertised speeds of at least 6 mbps download and 1.5 mbps upload." *id.* at 19. If an area is neither "unserved" nor "underserved" according to these definitions, CASF funds may not be used to fund broadband there. Charter has demonstrated in its challenge that the Eden Housing locations are neither "unserved" nor "underserved," and thus CASF funding is not appropriate or permissible.

In a recommendation that has not been adopted by the Commission, the Commission Staff has set forth the criteria for an applicant, such as Eden Housing, to rebut a challenge. Those criteria relate to whether the services are "available to 100 percent of the residents" and whether residents subscribe to the service. See Draft Staff Report, attached to D. 14-12-039, at A29.

Letter to William Goedecke

Re: Rebuttal to Housing Authority of the County of San Bernardino Grant Application

May 24, 2015

Page 2

Clearly, as Charter has demonstrated, Charter's service is "available" to 100 percent of the residents of Eden Housing and residents actually subscribe to the service. Charter has thus met both of the Staff's stated criteria, which should be sufficient to sustain Charter's challenge and deny Eden Housing's grant application.

Eden Housing bases its rebuttal on the fact that less than 100 percent of the residents at the Properties have chosen to take Charter's service, as if this were a reasonable reading either of the Staff's Report or the controlling statute. It is not. First of all, the Staff cannot have meant to suggest that even if the service is "available to 100 percent of the residents" the project can be deemed "unserved" or "underserved" unless every one of those residents chooses to take the service. If the Staff had intended that result, there was no reason to have mentioned its first criterion – that the service is "available" to those residents. Whether or not the service is "available" would be immaterial if 100 percent of those residents must also subscribe to the service for the area to be considered to be "served." But more fundamentally, the Commission has never adopted such a criterion for evaluating whether an applicant can rebut the challenge to a grant application. And that criterion would be inconsistent with the Commission's own definitions of "unserved" and "underserved," which relate to the statutory standards for eligibility for CASF funds. Furthermore, the idea that every customer in every unit of a public housing complex must take an existing provider's services would render the statutory distinctions between served, underserved and unserved meaningless, as virtually no areas of the State would be found to be "served" under that formulation. Eden Housing has thus wrongly conflated the Staff's criteria. Awarding CASF funds on this basis would violate both the statutory program and the Commission's own standards.

CASF was created "in order to spur the deployment of broadband facilities in unserved and underserved areas of California." D. 14-12-039 at 2. Charter is providing high quality broadband services to the residents within these communities, including the residents of the Properties, and Charter invested heavily to upgrade its infrastructure to provide a variety of high quality broadband, communications and entertainment services throughout the areas in question. Public funding is not necessary in this instance to accomplish CASF goals. The law's author made clear that it was intended to address situations where public housing projects are not wired for broadband: "a broadband cable running to the street or curb does not bring Internet access to public housing residents if the building's individual units are not wired for broadband." Quoted in D. 14-12-039 at A 28. But that is not the case here. Clearly, the Properties are wired and Charter is offering broadband service to the residents. Accordingly, Charter's challenge to the Application should be sustained.

Eden Housing's rebuttal also claims that its residents cannot afford Charter's service. But Charter publicly committed to offering a low cost broadband service with speeds of 30/4 Mbps at a price of \$14.99 per month within twelve months of completion of its acquisition of Time Warner Cable and Bright House Networks. This merger closed May 18th, 2016. Eligible households are those with children in the Federal free or reduced lunch program as well as seniors aged 65 or older receiving social security benefits. In comparison, Charter's low cost broadband program offers a much faster speed than Eden Housing proposes to offer its residents. In fact, Charter's low cost broadband service speed far exceeds the State's own definition of broadband.

Letter to William Goedecke

Re: Rebuttal to Housing Authority of the County of San Bernardino Grant Application

May 24, 2015

Page 3

In addition to its low cost broadband program, Charter offers promotions and discounted rates based on a customer subscribing to a bundle of services, such as cable television and telephone. A number of our customers at these locations take advantage of these bundled discounts. Moreover, Charter has a practice of negotiating discounted bulk rates for multiple dwelling units such as these locations. We have no record of a request for information from Eden Housing related to pricing for bulk service agreements. Complete information related to our current pricing for the Properties is available on our website at www.Charter.com.

There is another important factor that the Commission should consider in this matter. Resolution T-17515 indicates that Eden Housing plans to purchase internet "backhaul" service from Charter and distribute it via CAT5e cables to repeater sites and then over a wireless mesh network to residents. Charter is not aware of any contract or estimate provided to Eden Housing or its representatives. In fact, Charter does not offer its internet service for this type of "resale" distribution even if there is no cost to the recipients, and any such unauthorized use would violate Charter's "Acceptable Use" policy.¹ Without a survey and site analysis there is no guarantee, in any event, that the proposed solution is technologically feasible, capable of producing even the minimum bandwidth claimed in the application or that it can be sufficiently funded at the grant amount requested. Furthermore, the scenario proposed by Eden Housing would degrade Charter's product and, therefore its brand and may constitute an unauthorized use of service under California law, as well as company policy.

In conclusion, Charter appreciates the opportunity to respond to Resolution T-17515 and requests that the Commission reconsider CASF's recommendation for use of public funds at these locations. The Properties are receiving broadband services through private investment and these services clearly fit the definition of served under California statute.

Should Eden Housing be interested in Charter service for its residents, we welcome the opportunity to explore potential solutions with them.

Sincerely,

Del Valle
Director of State Government Affairs

¹ Prohibited Activities Using the System, Network, and Service. Any activity or use of the service which violates system or network security or integrity are prohibited and may result in criminal and civil liability. Such violations include, without limitation reselling or otherwise redistributing the service; disrupting, degrading or otherwise adversely affecting Charter' network or computer equipment owned by Charter or other Charter subscribers, excessive use of bandwidth that in Charter's sole opinion, places an unusually large burden on the network or goes above normal usage See <https://www.charter.com/browse/content/services#/terms> TCR3.

VIA E-MAIL

May 24, 2016

William Goedecke
Public Utilities Regulatory Analyst
California Public Utilities Commission
Broadband, Policy and Analysis

RE: Charter Communication Response to Eden Housing, Inc., Rebuttal
on Public Housing Infrastructure Grant Application ("Application")

Dear Mr. Goedecke:

Charter has clearly demonstrated that it has wired and makes available robust broadband service to all of the Eden Housing Inc., (Eden Housing) locations included in Resolution T-17515, namely Jasmine Square, Morgan Hill; Monticelli, Gilroy; Rancho Park, Hollister; Royal Court, Morgan Hill; Wheeler Manor – 650 5th Street, Gilroy; and Wheeler Manor – 651 6th Street, Gilroy (the "Properties"). We provide our response and further challenge to the Eden Housing rebuttal.

The Properties are neither unserved nor underserved, and the units at the various Properties are currently "wired." Charter has already provided redacted copies of customer bills for the complex which prove that the Properties are fully wired and served. Charter's published internet speed for the area, which includes the Properties, starts at 60 Mbps download and 4 Mbps upload. Charter surveyed the speed levels at each complex and submitted the test results with our challenge to the Application. As documented in our initial response, Charter's actual download and upload speeds meet or exceed what's offered in the market.

The Commission is required to follow both its enabling statutes and its own rules and decisions as set forth in D. 12-02-015, and D. 14-12-039. The Commission has defined "unserved" as "an area that is not served by any form of wireline or wireless facilities-based broadband, such that Internet connectivity is available only through dial-up service." D. 12-02-015 at 13. "Underserved" is defined as "an area where broadband is available, but no wireline or wireless facilities-based provider offers service at advertised speeds of at least 6 mbps download and 1.5 mbps upload." *Id.* at 19. If an area is neither "unserved" nor "underserved" according to these definitions, CASF funds may not be used to fund broadband there. Charter has demonstrated in its challenge that the Eden Housing locations are neither "unserved" nor "underserved," and thus CASF funding is not appropriate or permissible.

In a recommendation that has not been adopted by the Commission, the Commission Staff has set forth the criteria for an applicant, such as Eden Housing, to rebut a challenge. Those criteria relate to whether

Letter to William Goedecke
Re: Rebuttal to Eden Housing, Inc.
May 24, 2015
Page 2

the services are “available to 100 percent of the residents” and whether residents subscribe to the service. See Draft Staff Report, attached to D. 14-12-039, at A29.

Clearly, as Charter has demonstrated, Charter’s service is “available” to 100 percent of the residents of Eden Housing and residents actually subscribe to the service. Charter has thus met both of the Staff’s stated criteria, which should be sufficient to sustain Charter’s challenge and deny Eden Housing’s grant application.

Eden Housing bases its rebuttal on the fact that less than 100 percent of the residents at the Properties have chosen to take Charter’s service, as if this were a reasonable reading either of the Staff’s Report or the controlling statute. It is not. First of all, the Staff cannot have meant to suggest that even if the service is “available to 100 percent of the residents” the project can be deemed “unserved” or “underserved” unless every one of those residents chooses to take the service. If the Staff had intended that result, there was no reason to have mentioned its first criterion – that the service is “available” to those residents. Whether or not the service is “available” would be immaterial if 100 percent of those residents must also subscribe to the service for the area to be considered to be “served.” But more fundamentally, the Commission has never adopted such a criterion for evaluating whether an applicant can rebut the challenge to a grant application. And that criterion would be inconsistent with the Commission’s own definitions of “unserved” and “underserved,” which relate to the statutory standards for eligibility for CASF funds. Furthermore, the idea that every customer in every unit of a public housing complex must take an existing provider’s services would render the statutory distinctions between served, underserved and unserved meaningless, as virtually no areas of the State would be found to be “served” under that formulation. Eden Housing has thus wrongly conflated the Staff’s criteria. Awarding CASF funds on this basis would violate both the statutory program and the Commission’s own standards.

CASF was created “in order to spur the deployment of broadband facilities in unserved and underserved areas of California.” D. 14-12-039 at 2. Charter is providing high quality broadband services to the residents within these communities, including the residents of the Properties, and Charter invested heavily to upgrade its infrastructure to provide a variety of high quality broadband, communications and entertainment services throughout the areas in question. Public funding is not necessary in this instance to accomplish CASF goals. The law’s author made clear that it was intended to address situations where public housing projects are not wired for broadband: “a broadband cable running to the street or curb does not bring Internet access to public housing residents if the building’s individual units are not wired for broadband.” Quoted in D. 14-12-039 at A 28. But that is not the case here. Clearly, the Properties are wired and Charter is offering broadband service to the residents. Accordingly, Charter’s challenge to the Application should be sustained.

Eden Housing’s rebuttal also claims that its residents cannot afford Charter’s service. But Charter publicly committed to offering a low cost broadband service with speeds of 30/4 Mbps at a price of \$14.99 per month within twelve months of completion of its acquisition of Time Warner Cable and Bright House Networks. This merger closed May 18th, 2016. Eligible households are those with children in the Federal free or reduced lunch program as well as seniors aged 65 or older receiving social security benefits. In comparison, Charter’s low cost broadband program offers a much faster speed than Eden

Letter to William Goedecke
Re: Rebuttal to Eden Housing, Inc.
May 24, 2015
Page 3

Housing proposes to offer its residents. In fact, Charter's low cost broadband service speed far exceeds the State's own definition of broadband.

In addition to its low cost broadband program, Charter offers promotions and discounted rates based on a customer subscribing to a bundle of services, such as cable television and telephone. A number of our customers at these locations take advantage of these bundled discounts. Moreover, Charter has a practice of negotiating discounted bulk rates for multiple dwelling units such as these locations. We have no record of a request for information from Eden Housing related to pricing for bulk service agreements. Complete information related to our current pricing for the Properties is available on our website at www.Charter.com.

There is another important factor that the Commission should consider in this matter. Resolution T-17515 indicates that Eden Housing plans to purchase internet "backhaul" service from Charter and distribute it via CAT5e cables to repeater sites and then over a wireless mesh network to residents. Charter is not aware of any contract or estimate provided to Eden Housing or its representatives. In fact, Charter does not offer its internet service for this type of "resale" distribution even if there is no cost to the recipients, and any such unauthorized use would violate Charter's "Acceptable Use" policy.¹ Without a survey and site analysis there is no guarantee, in any event, that the proposed solution is technologically feasible, capable of producing even the minimum bandwidth claimed in the application or that it can be sufficiently funded at the grant amount requested. Furthermore, the scenario proposed by Eden Housing would degrade Charter's product and, therefore its brand and may constitute an unauthorized use of service under California law, as well as company policy.

In conclusion, Charter appreciates the opportunity to respond to Resolution T-17515 and requests that the Commission reconsider CASF's recommendation for use of public funds at these locations. The Properties are receiving broadband services through private investment and these services clearly fit the definition of served under California statute.

Should Eden Housing be interested in Charter service for its residents, we welcome the opportunity to explore potential solutions with them.

Sincerely,



Debra Heintz
Director of State Government Affairs

¹ Charter's Acceptable Use Policy (AUP) prohibits the use of Charter's service for resale or for any other purpose that is not intended by Charter. Such use is prohibited and may result in criminal and civil liability. Such violations include, but are not limited to, the following: excessive use of bandwidth that in Charter's sole opinion, places an unusually large burden on the network or goes above normal usage. See <https://www.charter.com/browse/content/services#/terms> TCR3 .

Del J. Heintz
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VIA E-MAIL

May 24, 2016

William Goedecke
Public Utilities Regulatory Analyst
California Public Utilities Commission
Broadband, Policy and Analysis

RE: Charter Communication Response to Community Housing Works,
Community Housing Works Rebuttal on Public Housing
Infrastructure Grant Application ("Application")

Dear Mr. Goedecke:

Charter has clearly demonstrated that it has wired and makes available robust broadband service to all of the Community Housing Works (CHW) locations included in Resolution T-17515, namely Northwest Manors II (Mountain), Pasadena and Northwest Manor II (Raymond), Pasadena (the "Properties"). We provide our response and further challenge to CHW rebuttal.

The Properties are neither unserved nor underserved, and the units at the various Properties are currently "wired." Charter has already provided redacted copies of customer bills for the complex which prove that the Properties are fully wired and served. Charter's published internet speed for the area, which includes the Properties, starts at 60 Mbps download and 4 Mbps upload. Charter surveyed the speed levels at each complex and submitted the test results with our challenge to the Application. As documented in our initial response, Charter's actual download and upload speeds meet or exceed what's offered in the market.

The Commission is required to follow both its enabling statutes and its own rules and decisions as set forth in D. 12-02-015, and D. 14-12-039. The Commission has defined "unserved" as "an area that is not served by any form of wireline or wireless facilities-based broadband, such that Internet connectivity is available only through dial-up service." D. 12-02-015 at 13. "Underserved" is defined as "an area where broadband is available, but no wireline or wireless facilities-based provider offers service at advertised speeds of at least 6 mbps download and 1.5 mbps upload." *Id.* at 19. If an area is neither "unserved" nor "underserved" according to these definitions, CASF funds may not be used to fund broadband there. Charter has demonstrated in its challenge that the Eden Housing locations are neither "unserved" nor "underserved," and thus CASF funding is not appropriate or permissible.

In a recommendation that has not been adopted by the Commission, the Commission Staff has set forth the criteria for an applicant, such as Eden Housing, to rebut a challenge. Those criteria relate to whether the services are "available to 100 percent of the residents" and whether residents subscribe to the service. See Draft Staff Report, attached to D. 14-12-039, at A29.

Clearly, as Charter has demonstrated, Charter's service is "available" to 100 percent of the residents of Eden Housing and residents actually subscribe to the service. Charter has thus met both of the Staff's stated criteria, which should be sufficient to sustain Charter's challenge and deny Eden Housing's grant application.

Eden Housing bases its rebuttal on the fact that less than 100 percent of the residents at the Properties have chosen to take Charter's service, as if this were a reasonable reading either of the Staff's Report or the controlling statute. It is not. First of all, the Staff cannot have meant to suggest that even if the service is "available to 100 percent of the residents" the project can be deemed "unserved" or "underserved" unless every one of those residents chooses to take the service. If the Staff had intended that result, there was no reason to have mentioned its first criterion – that the service is "available" to those residents. Whether or not the service is "available" would be immaterial if 100 percent of those residents must also subscribe to the service for the area to be considered to be "served." But more fundamentally, the Commission has never adopted such a criterion for evaluating whether an applicant can rebut the challenge to a grant application. And that criterion would be inconsistent with the Commission's own definitions of "unserved" and "underserved," which relate to the statutory standards for eligibility for CASF funds. Furthermore, the idea that every customer in every unit of a public housing complex must take an existing provider's services would render the statutory distinctions between served, underserved and unserved meaningless, as virtually no areas of the State would be found to be "served" under that formulation. Eden Housing has thus wrongly conflated the Staff's criteria. Awarding CASF funds on this basis would violate both the statutory program and the Commission's own standards.

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Eden Housing's rebuttal also claims that its residents cannot afford Charter's service. But Charter publicly committed to offering a low cost broadband service with speeds of 30/4 Mbps at a price of \$14.99 per month within twelve months of completion of its acquisition of Time Warner Cable and Bright House Networks. This merger closed May 18th, 2016. Eligible households are those with children in the Federal free or reduced lunch program as well as seniors aged 65 or older receiving social security benefits. In comparison, Charter's low cost broadband program offers a much faster speed than Eden

Letter to William Goedecke
Re: Rebuttal to Community Housing Works Grant Application
May 24, 2015
Page 3

Housing proposes to offer its residents. In fact, Charter's low cost broadband service speed far exceeds the State's own definition of broadband.

In addition to its low cost broadband program, Charter offers promotions and discounted rates based on a customer subscribing to a bundle of services, such as cable television and telephone. A number of our customers at these locations take advantage of these bundled discounts. Moreover, Charter has a practice of negotiating discounted bulk rates for multiple dwelling units such as these locations. We have no record of a request for information from Eden Housing related to pricing for bulk service agreements. Complete information related to our current pricing for the Properties is available on our website at www.Charter.com.

There is another important factor that the Commission should consider in this matter. Resolution T-17515 indicates that Eden Housing plans to purchase internet "backhaul" service from Charter and distribute it via CAT5e cables to repeater sites and then over a wireless mesh network to residents. Charter is not aware of any contract or estimate provided to Eden Housing or its representatives. In fact, Charter does not offer its internet service for this type of "resale" distribution even if there is no cost to the recipients, and any such unauthorized use would violate Charter's "Acceptable Use" policy.¹ Without a survey and site analysis there is no guarantee, in any event, that the proposed solution is technologically feasible, capable of producing even the minimum bandwidth claimed in the application or that it can be sufficiently funded at the grant amount requested. Furthermore, the scenario proposed by Eden Housing would degrade Charter's product and, therefore its brand and may constitute an unauthorized use of service under California law, as well as company policy.

In conclusion, Charter appreciates the opportunity to respond to Resolution T-17515 and requests that the Commission reconsider CASF's recommendation for use of public funds at these locations. The Properties are receiving broadband services through private investment and these services clearly fit the definition of served under California statute.

Should Eden Housing be interested in Charter service for its residents, we welcome the opportunity to explore potential solutions with them.

Sincerely,



Del J. Heintz
Director of State Government Affairs

¹ Pro system includ advers excess above

etwork, and Service Any activity or use of the service which violates e prohibit d and may result in criminal and civil liability. Such violations erwise redi tributing the service; disrupting, degrading or otherwise mputer equipment owned by Charter or other Charter subscribers; 's sole opinion, places an unusually large burden on the network or goes [rter.com/browse/content/services#/terms_TCR3](http://www.Charter.com/browse/content/services#/terms_TCR3).