

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution T-17443 Implementation of New
Timelines for California Advanced Services
Fund Applicants

Res. T-17443
(Served June 16, 2014)

**REPLY COMMENTS OF THE CENTRAL COAST AND CENTRAL SIERRA
CONNECT REGIONAL BROADBAND CONSORTIA
ON DRAFT RESOLUTION T-17443**

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I. Summary

The Central Coast Broadband Consortium and Central Sierra Connect offer the following reply comments to comments submitted on 11 June 2014 regarding Draft Resolution T-17443 (the Draft), which sets a new schedule and process for applications for infrastructure grants and loans from the California Advanced Services Fund (CASF). The Central Coast Broadband Consortium and Central Sierra Connect are the CASF-funded Regional Broadband Consortia representing California's central coast region, which includes the Counties of San Benito, Monterey and Santa Cruz, and central Sierra region, which includes the Counties of Alpine, Amador, Calaveras, Mariposa and Tuolumne.

II. SB 740 did not grant incumbents a right of first refusal on "projects"

In their comments, both Verizon California Inc. (Verizon) and the California Cable and Telecommunications Association (CCTC) falsely claim that Section 281(e)(3)(B) of the California Public Utilities Code (the Section), enacted in 2013 by Senate Bill 740, gives existing facilities based providers a right of first refusal regarding "projects" proposed for CASF funding in a given area.

The Section never uses the term "right of first refusal". This term has been used colloquially to describe the privileges accorded existing providers by SB 740, which enacted the Section, but its use is not strictly correct in the legal sense. A more accurate description of the gift to existing providers offered in the Section would be "right of first proposal".

Regardless, the language of the Section stands on its own: funding for a project by a non-telephone corporation in a given area that includes an underserved household cannot be granted unless the existing providers have had an opportunity to upgrade their own service in that given area. Please note,

this restriction does not apply to projects proposed for unserved households by non-telephone corporations or to projects, of any sort, proposed by telephone corporations.

The Draft does an exemplary job of giving existing providers an opportunity to upgrade their own substandard facilities prior to funding other infrastructure that provides an acceptable level of service to Californians.

III. The proposed schedule offers sufficient time for existing providers to identify their own substandard facilities and service areas

Verizon, CCTA's members and other existing providers, including AT&T, have been submitting detailed data to the CPUC regarding the level of broadband service provided to households in their service areas since 2008, and on a twice-yearly basis since 2011. Six years of evaluation and constant revision of this data is more than sufficient time for existing providers to determine where their service does not meet CPUC minimum standards.

If existing providers cannot locate their own information, they may find it on the CPUC's website. If they need help in interpreting the data, our regional broadband consortia – also funded by CASF – stand ready to assist immediately. If the data submitted by existing providers is false or insufficiently detailed, then existing providers must live with the consequences: they have been given sufficient time.

IV. The proposed schedule offers a reasonable timeframe to complete upgrades

The sorry fact is that Verizon and CCTA's members have failed to upgrade service to all the Californians they have been granted the economic benefit of serving on an anti-competitive basis for

decades. The California Legislature was correct to set a 31 December 2015 deadline for the CPUC to rectify this failure, at least to the extent of 98% of Californians. For years, in numerous press releases, statements to lawmakers and regulators and straight-faced presentations to customers and local officials, Verizon and CCTA's members, among others, have described their upgrade efforts in California in rapturous terms. SB 740 was signed into law by Governor Brown on 3 October 2013. Existing providers have known since then that they would have to upgrade substandard facilities or face the possibility of CASF-subsidized competition from non-telephone corporations. The 1 April 2015 deadline proposed in the draft extends the time granted them to do so to eighteen months.

Nevertheless, we are sympathetic to points made by the Small LECs and Frontier in their comments on the Draft. Provided that existing providers demonstrate due diligence in proposing and undertaking upgrades and substantial penalties accrue for failure to complete such work in the time granted, we support allowing exceptions of short duration to the 1 April 2015 completion deadline (but not the 26 September 2014 notification deadline) in specific circumstances such as winter construction in genuinely mountainous terrain or the necessity and demonstrably reasonable probability of obtaining federal, state or local funds.

V. Conclusion

Verizon and CCTA have arrogantly assumed that SB 740 and the Commission's diligent work in implementing it is for their benefit alone. It is not. CASF and the projects and programs it funds are for the benefit of all Californians, who deserve better than the empty promises, deliberate distortions and phony outrage of career lobbyists. Along with the guarantees of good conduct we previously proposed, we urge the Commission to adopt the Draft.