

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

Application for Rehearing of
Resolution T-17495 by
SmarterBroadband, Inc.

Application A1601004
Filed 27 January 2016

**MOTION FOR LEAVE TO FILE REPLY COMMENTS TO BRIGHT
FIBER RESPONSE TO APPLICATION FOR REHEARING OF
RESOLUTION T-17495 BY SMARTERBROADBAND, INC.**

27th January 2106

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I. Introduction

Pursuant to Rule 16.1 of the Commission’s Rules of Practice and Procedure, SmarterBroadband, Inc. (SBB) applies for rehearing of Resolution T-17495, which approved funding for the grant and loan application of Bright Fiber Network, Inc. (U7287C) (“Bright Fiber”) from the California Advanced Services Fund (CASF) in the amount of \$16,156,323 from the Broadband Infrastructure Grant Account and \$500,000 from the Broadband Infrastructure Revolving Loan Account for a fiber-to-the-premise project in rural Nevada County. SBB served a challenge to Resolution T-17495 and, therefore, pursuant to Rule 16.2 is deemed a “party” eligible to seek rehearing of the final resolution.

SBB RESPONDS TO Bright Fibers Incorrect comments as follow;

I. SBB response to Bright Fibers statements regarding:

SBB Errs in Asserting that the Bright Fiber Project Area is Served; Staff Acted Properly by Removing Households from Project Who Received Served Speeds

SBB contends that The Bright Fiber Project area is served and that CPUC acted improperly in their treatment of SBB and other Fixed Wireless operators

SBB contends that they and other Fixed Wireless operators were not treated fairly, equitably or equally as wireline operators. SBB contends that if they have proven that they provide internet in an area, then that area should be removed from the Bright Fiber Project area, just like a wireline operator, and not just a single household!!

It is unreasonable to contend that Fixed Wireless, which does not need trenching to reach a home but travels through the air should be considered not covering an area as served where we already have hundreds of customers.

It is irrelevant that Bright Fiber constantly mentions that SBB's BIP grant area overlaps the Bright Fiber project area by 6%. What is relevant is that SBB serves the Bright Fiber project area and has hundreds of customers in that area.

The statement made by Bright Fiber that SBB did not submit a final completion report to the USDA is untrue and wholly incorrect. ***SBB filed their completion report on the 8th September 2015 and received the final close out letter from the USDA 30th September 2015.***

The use of inaccurate statements to attempt to sway the staff of the CPUC cannot be ignored and should bring all Bright Fibers comments about SBB's business and intents into question.

Another irrelevant topic raised by Bright Fiber regards planning and CEQA for towers. Again SBB contends that Bright Fiber has no insight to the operations and planning of SBB; however as statements have been made SBB will address them.

SBB employed tower planning expert consultants who advised SBB that planning for towers being considered at that time for locations in Nevada County would be unattainable. Therefore SBB revised their infrastructure plans to complete their project without those towers.

SBB contends the CPUC did not follow up with SBB after the end of their BIP grant as they stated they would and therefore T-17495 should be reheard.

II. SBB response to Bright Fibers statements regarding:

The Commission’s Approach on Served Speeds As to Fixed Wireless Operators Is Appropriate for this Challenging Geographic Service Area and Within its Discretion

SBB contends that Fixed Wireless operators should be treated the same way as wireline operators.

If a wireline operator has a cable in a conduit running down a street with one customer connected they are deemed as servicing that whole area, even though to connect each additional customer they will need to dig a trench to that customer’s home. Yet a Fixed Wireless operator may not need to do anything more than install a receiver on a house, or at most may need to install a small repeater (much less work than trenching a road!), but is not deemed as serving an area. This is an unreasonable assumption.

III. SBB response to Bright Fibers statements regarding:

The Commission Should Ignore SBB’s Arguments that Other Fixed Wireless Providers’ Coverage Should Be Considered.

It is a fact that there are many Fixed Wireless operators servicing the proposed Bright Fiber project area and they should not be ignored as they too provide service and have done so for many years.

IV. SBB response to Bright Fibers statements regarding:

SBB’s Double Funding Argument Lacks Factual Underpinnings.

SBB does provide coverage of the proposed Bright Fiber project area and therefore approval of resolution T-17495 would indeed be “double funding”.

SBB has not “failed” to provide service to “every” household, we serve where and when requested.

Yet again Bright Fiber repeats the false statement that no RUS final report has been filed.

We have already covered the environmental issue in I above.

V. Conclusion

SBB contends that the decision by the Commission to build this project was improper. As detailed above, some facts were not considered and inaccurate assumptions were made. Therefore Resolution T-17495 must be reheard.

Dated: 27th January 2016

Respectfully submitted,

/s/ Adam Brodel

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