

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Approval of Funding for the Grant Application of
Race Telecommunications, Inc. (U7060-C), from The
California Advanced Services Fund (CASF) in the
amount of \$27,629,599 for the Gigafy Phelan
Project

DRAFT RESOLUTION T-17525

**COMMENTS OF RACE TELECOMMUNICATIONS, INC. RESPONDING TO COMMENTS OF THE OFFICE OF
RATEPAYER ADVOCATES RELATING TO RESOLUTION T-17525, APPROVING RACE
TELECOMMUNICATIONS, INC. CASF PROJECT GRANT TO CONSTRUCT THE GIGAFY PHELAN PROJECT
(FILED AUGUST 10, 2015)**

/s/ Raul Alcaraz

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

Race Telecommunications, Inc. (“Race”) hereby submits its reply comments to the Office of Ratepayer Advocates (“ORA”) comments, filed June 19, 2017, concerning Resolution T-17525 in which the Communications Division recommends approval of \$27,629,599 from the California Advanced Services Fund (“CASF”) of Race’s Gigafy Phelan project. Race challenges ORA’s filing as without merit under the CASF’s rules.

Race has thoroughly reviewed the comments by ORA which extensively quotes Commission Decision No. (D.) 15-12-005.¹ After a close review of the Frontier-Verizon merger decision, D.15-12-005, and with an in-depth understanding of the criteria and requirements placed upon Frontier by this Commission, Race does not believe anything in that decision prevents the approval of grant Resolution T-17525.

The conditions of the Commission in that decision is for Frontier to upgrade poor broadband services using Connect America Funds and its own funds; it in no way allows Frontier to block other competitors from upgrading broadband using the CASF program, especially when an application was submitted prior to the date of issuance of D.15-12-005 or the official closing of the Verizon-Frontier merger.

Race asks that Ordering Paragraph 16 of D.15-12-005 be recognized:

“Nothing in this decision shall prevent the Commission from ordering Frontier Communications Corporation (Frontier) to take actions inconsistent with its commitments in the Settlements or the Memoranda of Understanding (MOU). Any inconsistency between a Commission order and any term of any Settlement or MOU shall be resolved in favor of the Commission order. *Frontier may not use any term of any Settlement or MOU as a defense against any future Commission order.*”² (emphasis added)

Based on this directive, this Commission should disregard the comments presented by Frontier and echoed by the Office of Ratepayer Advocates as a blatant attempt to block a new competitor from serving an underserved community by using “double dipping” as a specious argument. In addition, MOUs such as D.15.12-005 are non-legally binding which makes it easier for Frontier to skirt their responsibilities. The only ones who will suffer if the resolution in question is not approved, are the ratepayers themselves in the proposed project area.

ORA comments that the resolution does not account for CAF II funding that Frontier accepted in the proposed project area. Race believes the resolution should not be required to account for the funding as CAF II funding does not guarantee the successful completion of a project. See Frontier resolution re: Shingletown. In addition, a review of the CA broadband map shows there are overlaps between CAF and CASF funding – not to mention the fact that Frontier has used both funds for the same project area in the past.³

¹ A. 15-03-005, In the Matter of the Joint Application of Frontier Communications Corp, Frontier Communications of America Inc. (U5429C), Verizon California, Inc. (U1002C), Verizon Long Distance LLC (U5732), and Newco West Holdings LLC for Approval of Transfer of Control Over Verizon California, Inc. and related Approvals of Transfer of Assets and Certifications), voted Dec. 3, 2015, issued December 9, 2015 (Frontier-Verizon Merger Decision).

² D. 15-12-005, Ordering Paragraph 16, at page 81.

³ <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M153/K450/153450700.PDF>, Resolution T-17484, dated July 23, 2015

Race believes ORA has been misinformed by Frontier about their plans to deploy broadband in the proposed project area and the rules and regulations surrounding CAF II and how the funds may be used. Race does not wish for misinformation to color the perspective of the organization, and our company feels ORA and Race both have the ratepayers in mind. Therefore, we feel it important to reiterate that under current CPUC CASF rules, this application is more than worthy of approval.

The language involving the FCC Connect America Fund II federal grants and how they will be used by Frontier in California is vague in D.15-12-005. See, for example, Exhibit 1⁴, Settlement Agreement between Frontier and consumer advocates ORA, TURN and CforAT, at pages 5-10 where the broadband improvements are promised for the entire state and only in paragraph 6(b) at page 8 for Los Angeles County, San Bernardino County, and Riverside County. Only Frontier itself knows where it would deploy broadband to specific households in the large geographic area of “San Bernardino County”. It is up to Frontier to notify the FCC through the Form 477 process (and the CPUC by providing it with a copy of the Form 477) so the newly served areas can be mapped on the California Broadband map. This point is very important. The Commission’s current CASF rules state that applicants may apply for eligible unserved or underserved areas as set forth by the California Broadband map and any updates provided to the Commission.

The households contained in this project areas showed as eligible on the maps on August 10, 2015, when the application was filed and remain eligible today. It took until April 19, 2017 – a full year and 8 months after Race filed its original Gigafy Phelan CASF application with the CPUC – for Frontier to file a late challenge with CASF Staff.

The approval of Resolution T-17525 should not depend on whether or not Frontier has been awarded subsidies through CAF II or any planned infrastructure Frontier may or may not have in the area. Race’s application should continue to be evaluated in accordance with *current* CPUC policy which allows CASF awards to be made in and around CAF-subsidized areas,⁵ and which score projects with higher speeds as better for consumers.

Due to the lower median deployment cost (per household) in this project and due to the lower cost of maintenance for fiber based projects, Race’s ability to sustain service in the Phelan region would not be severely impacted. The project does not rely on continued subsidies and is a better long-term solution for ratepayers.⁶

The technology behind Race’s projects increases reliability, creates redundancy, maximizes efficiency and brings down future maintenance costs. New fiber networks like the ones deployed by Race are crucial in the advancements in telehealth, digital literacy, and remote learning as well as in the development of new technologies for decades to come. This cannot be done with copper networks that provide speeds of 10/1 or below.

⁴ <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M156/K249/156249641.pdf>, d.15-12-005, PDF page 157

⁵ <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M156/K883/156883679.PDF>, Resolution T-17503, dated December 21, 2015

⁶ <http://files.shareholder.com/downloads/AMDA-OJWDG/4641937339x0xS20520-17-3/20520/filing.pdf>, 3/01/2017 SEC 10K filing, PDF Page 21 / Document Page 19

In conclusion, through research and discovery, neither PUC staff nor Race found served speeds in the areas that remain in the application. The claims that Frontier provides served speeds in this area are simply false, and Race has found that ratepayers are continuously deceived by Frontier when it comes to what truly is available in the region, for example, Frontier claims to provide speeds of up to 50Mbps in Boron, CA.⁷

Boron is the site of a successful and fully constructed Race CASF project that is 100% Fiber to the Home. According to Frontier, they have been investing funds in Boron since 2012⁸. They also claim “to be Boron’s only Internet provider that uses a completely fiber optic network.”⁹ Frontier’s statements in regards to service in Boron are incorrect. Race would recommend that ORA should look into claims from Frontier about their alleged service in rural communities. In doing so, they will find that the need for better broadband is great and that ORA should be supporting grant Resolution T-17525 instead of commenting against it.

Race respectfully asks that ORA’s comments be disregarded on the basis of the fact that the project has strong political, business, public safety, education and resident support. We urge the Commission to vote yes on resolution T-17525 “Gigafy Phelan”.

Attachments:

Attachment A – Screenshots of Frontier advertising, pulled from Frontier website June 20 and June 23, 2017

Respectfully submitted,

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⁷ http://cdn.downloads.race.com/frontier_web_boron1.pdf, Frontier website, <https://west.frontier.com/ca/boron>, June 20, 2017

⁸ http://cdn.downloads.race.com/frontier_web_boron2.pdf Frontier website, <https://west.frontier.com/ca/boron>, June 20, 2017

⁹ http://cdn.downloads.race.com/frontier_web_boron3.pdf, Frontier website, <https://west.frontier.com/ca/boron>, June 23, 2017