

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

**Application of INYO NETWORKS, INC.
for Digital 299 Middle Mile Broadband
Project, Draft Resolution T-17548**

**COMMENTS OF VELOCITY COMMUNICATIONS, INC.
ON DRAFT RESOLUTION T-17548**

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COMMENTS OF VELOCITY COMMUNICATIONS, INC. ON DRAFT RESOLUTION T-17548

1. Introduction

In accordance with Rule 14.5 of the California Public Utilities Commission Rules of Practice and Procedure, Velocity Communications, Inc. submits these comments and objections to Draft Resolution T-17548. The draft resolution concerns the application of Inyo Networks, Inc. for a California Advanced Services Program grant for the Digital 299 Middle Mile Broadband project.

On August 24, 2015, Velocity Communications, Inc. submitted its protest to Inyo Networks' application for grant funding. Velocity's objections are noted in the draft resolution. The draft resolution contains data on broadband speed testing which is now outdated. Much has changed since CPUC staff's investigation ended. The Commission does not have before it the current levels of broadband service provided by Velocity Communications, Inc. Since the investigation ended, Velocity has made upgrades to its network and will interconnect with existing middle mile fiber in the area during the month of February. These improvements provide Velocity Communications, Inc. with almost unlimited capacity within the service area.

2. Applicable Law

A. Standards that apply in granting funds.

The purpose of the California Advanced Services Fund is to encourage deployment of broadband service that will promote economic growth, job creation, and the substantial benefits of advanced technology. Public Utilities Code section 281(a.) Priority is given to last mile broadband access for households that are unserved. Any party challenging an application shall have "the opportunity to

demonstrate actual levels of broadband service in the project area, which the commission shall consider in reviewing the application." Section 281(b)(2.)

Funding "shall not be approved until after any existing facilities-based provider has an opportunity to demonstrate to the commission that it will, within a reasonable timeframe, upgrade existing service." An existing facilities provider may, but is not required to, apply for funding. Section 281(e)(3)(B.)

B. The commission's decision should rest on actual levels of service.

Section 281(e)(3)(C) of the Public Utilities Code provides "that the commission shall provide each applicant, and any party challenging an application, the opportunity to demonstrate actual levels of broadband service in the project area, which the commission shall consider in reviewing the application."

More information has come to light since the investigation ended, including the addition of a fiber optic connection to Velocity's network.

The project description that must be provided, as part of a grant application, requires the submission of data to prove that the area proposed is unserved or underserved, including average upload and download speeds. The application must estimate potential subscriber size and estimated potential subscriber adoption plan. Sections 14, 15 and 16 of the Public Utilities Commission's California Advanced Services Fund application.

As set forth below, Inyo Networks, Inc. did not provide accurate data on the issue of whether the subject area is unserved or underserved, and the data that it did provide is now outdated. The figures on which the Commission is asked to make a decisions are incomplete, and further investigation is warranted so that the Commission has all the facts.

3. Issues

Velocity Communications, Inc. has served the communities of Weaverville, Hayfork, Lewiston, Douglas City, Trinity Center, Hoopa and Willow Creek for over ten years. The data reported by Inyo Networks is not entirely accurate. If Velocity Communications is further excluded from this process, it will suffer harm to its business.

Here are additional facts that are not included in the draft resolution, or in Inyo Networks, Inc.'s grant application:

A. Velocity Communications has signed a contract to access existing middle mile fiber in Weaverville, giving Velocity almost unlimited capacity in Trinity County and surrounding areas. It is anticipated that this connection will be completed sometime during the month of February 2017.

B. Velocity Communications has upgraded several microwave links to outlying communities, to allow for more bandwidth. This upgrade took place after the Commission ended its investigation of Velocity's speeds, and after Velocity submitted its August 24, 2015 letter opposing the project.

C. Velocity is now able to meet the 6/1.5 served criteria in Lewiston, and Velocity has additional evidence to present on speed tests in the service areas. The decision should not rest on the limited data referenced in the draft resolution, gathered during a short window of time and before Velocity's service capacity increased. Velocity would also like to be heard on its efforts to provide coverage in the Downriver Area of Trinity County (in Burnt Ranch and other communities.) Section 281(e)(B)(3) of the Public Utilities Code grants the existing facilities-based provider the "opportunity to demonstrate to the commission that it will, within a reasonable timeframe, upgrade existing service." A connection to existing middle mile fiber optic cable in the next few weeks constitutes a "reasonable timeframe."

The Commission ought to require additional information and investigation from the applicant, and develop more facts before awarding this grant. The project proposed by Inyo Networks, Inc. duplicates services and risks harming Velocity's business. Inyo Networks, Inc. has never contacted Velocity Communications about this project and grant application, but according to the draft resolution, Inyo has been in contact with Frontier Communications, a company that does not even currently provide internet service in Trinity County.

Based in Weaverville, and locally owned and operated for 15 years, Velocity already provides services to much of the populated areas of Trinity County. Travis Finch founded Velocity Communications in 2001, while he was in high school. The

company was incorporated in 2004. Travis Finch built this business without any subsidies, grants or conventional loans. The Velocity Communications network covers over 700 square miles. Velocity provides service free of charge to many non-profits and community organizations in Trinity County, and provides fiber optic services in the Weaverville area. This type of entrepreneurship deserves the Commission's support.

Velocity is a local company that is growing along with available technology, with business plans calling for expansion. Velocity asks that the investigation be reopened and that the hearing be tabled pending completion.

4. Conclusion

For the foregoing reasons, Velocity Communications, Inc. asks that the investigation into the facts be reopened, and that Velocity Communications, Inc. be granted the opportunity to provide additional data to the Commission consistent with these comments and objections, to demonstrate actual levels of broadband service in the project area.

Dated: January 30, 2017

Respectfully submitted,

_____/s/_____

Jeanette Palla, attorney for Velocity Communications, Inc.

Certificate of Service

I hereby certify pursuant to the laws of the State of California and pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of the COMMENTS OF VELOCITY COMMUNICATIONS, INC. on all parties identified on the attached service list, and on the Administrative Law Judge for this proceeding, John Baker at john.baker@cpuc.ca.gov.

Service was effectuated by transmitting copies via email to all parties who have provided an email address. First class mail posted in California will be used if electronic service cannot be effectuated, with proof of service to be provided.

Executed this 30th day of January, 2017 at Weaverville, California.

_____/s/_____

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