

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



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Application of Verizon California Inc. (U1002C)
for Rehearing of Resolution T-17330.

A. _____ ~~A1108020~~

**APPLICATION OF
VERIZON CALIFORNIA INC.
FOR REHEARING OF RESOLUTION T-17330
(ISSUED AUGUST 1, 2011)**

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August 26, 2011

Pursuant to Rule 16.1 of the Commission's Rules of Practice and Procedure, Verizon California Inc. (U1002C) files this Application for Rehearing of Resolution T-17330, issued August 1, 2011. This Application proposes a minor, technical change to the Resolution that does not affect the outcome.

DISCUSSION

In Resolution T-17330, the Commission approved a request by Verizon to deviate from the undergrounding requirements of Public Utilities Code section 320 regarding certain facilities that Verizon deployed along scenic Highway 395. The Resolution provides, in pertinent part, that Verizon "*shall* begin offering broadband services from this deployment to these communities within 18 months of the approval of this resolution, regardless of the outcome of its CASF grant application."¹

Verizon respectfully requests that the Commission revise the Resolution to remove the language requiring the provision of broadband service. First, Verizon *agrees* to begin offering broadband services in the designated communities, and applied for a CASF grant on July 12, 2011; therefore, the language in the Resolution *requiring* Verizon to provide such service is unnecessary. Second, removing this language ensures that the Resolution is lawful. As California courts have noted, the Commission's ability to order penalties and other remedies is prescribed by statute, which requires any penalty to be paid to the

¹ Resolution at 1 (emphasis added); see *also id.* at 15, Ordering Paragraph 3.

General Fund, not used to deploy services.² Also, the Commission does not have jurisdiction over broadband services such as digital subscriber line (DSL) service.³ Given Verizon's agreement to deploy broadband service, the Resolution — with the broadband language stricken — will have exactly the same end result and will be enforceable.

Verizon proposes two minor changes to implement its proposal. First, on page 1, in the Summary section, strike the following sentence:

This resolution imposes a penalty on Verizon in the amount of \$5,000 for violating § 320. Additionally, Verizon has submitted an application for a California Advanced Services Fund (CASF) grant to add the necessary facilities to provide broadband from this fiber deployment to the currently unserved communities of Swall Meadows and Crowley Lake. ~~Verizon shall begin offering broadband services from this deployment to these communities within 18 months of the approval of this resolution, regardless of the outcome of its CASF grant application.~~ This resolution does not require Verizon to underground aerial facilities along Highway 395 in Mono County between Bishop and Mammoth Lakes.

Second, on page 15, strike Ordering Paragraph 3 in its entirety, and re-number the remaining Ordering Paragraphs.

If, however, the Commission believes the Resolution should specifically address the broadband issue, then Verizon requests two minor changes that

² See, e.g., *Assembly of the State of California v. PUC*, 12 Cal.4th 87, 102 (“The Commission does have the authority to seek penalties against a utility for misconduct, but the statutes applicable to penalties contain various procedural protection for the utility and also direct that amounts paid as penalties should be deposited into the General Fund.”).

³ For example, in D.04-01-040, the Commission dismissed a complaint alleging, among other things, misleading advertising by SBC California's ISP affiliate and Verizon Online. In a footnote, the commission indirectly acknowledges the limits of its jurisdiction with respect to these companies. “Even though the misleading advertising is alleged to have benefited SBC California's ISP affiliate, SBCIS, neither that company nor Verizon Online has been named as a defendant here, because complainants recognize that this Commission does not exercise jurisdiction over information services such as ISPs.” D.04-01-040, *citing* D.98-10-057, 82 CPUC2d 492, 497–99; D.02-10-060, Appendix A, p. 19.

reflect Verizon's agreement to deploy this service. First, on page 1, revise the Summary section as follows:

This resolution imposes a penalty on Verizon in the amount of \$5,000 for violating § 320. Additionally, Verizon has submitted an application for a California Advanced Services Fund (CASF) grant to add the necessary facilities to provide broadband from this fiber deployment to the currently unserved communities of Swall Meadows and Crowley Lake. Verizon ~~shall begin~~ **agrees to begin** offering broadband services from this deployment to these communities within 18 months of the approval of this resolution, regardless of the outcome of its CASF grant application. This resolution does not require Verizon to underground aerial facilities along Highway 395 in Mono County between Bishop and Mammoth Lakes.

Second, on page 15, revise Ordering Paragraph 3 as follows:

Verizon California, Inc. has applied for a California Advanced Services Fund assistance grant to provide broadband to the communities of Swall Meadows and Crowley Lake. Verizon ~~must~~ **agrees to** make these service offerings available within 18 months of the approval of this resolution, regardless of the outcome of its CASF application.

This alternative proposal also will ensure that the Resolution is lawful, and will not change the end result.

Verizon appreciates the Commission's consideration of this matter.

August 26, 2011

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R M R'.

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