

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



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Application for Rehearing of Resolution T-17898 by  
Further Reach Inc.

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BY FURTHER REACH INC.**

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**I. INTRODUCTION**

Pursuant to Public Utilities Code Section 1731 and Rule 16.1 of the Commission's Rules of Practice and Procedure, Further Reach Inc. ("Further Reach") respectfully submits this Application for Rehearing of Resolution T-17898, adopted December 18, 2025 and ISSUED December 19, 2025.

Further Reach is a rural telecommunications provider that has served Mendocino County, California since 2013 using unlicensed fixed wireless ("ULFW") technology. In June 2025, Further Reach submitted ULFW Existing Service Claim CA-4540 pursuant to NTIA's BEAD Restructuring Policy Notice ("RPN"), seeking to exclude 2,348 broadband serviceable locations ("BSLs") from BEAD eligibility on the grounds that they are already served by qualifying ULFW service.

Resolution T-17898 is unlawful and erroneous for the following reasons:

1. The Commission applied inconsistent evidentiary standards—rejecting comprehensive PE-certified evidence in June 2025 while accepting subscriber records alone in November 2025 for the same location (1316249624).
2. The Commission excluded 1,776 locations from evidence review without explanation, violating the RPN's evidence-based determination requirement.
3. The Commission rejected 571 locations with identical boilerplate language, demonstrating no individualized review occurred.

4. The Commission's response to Further Reach's Rule 14.5 comments failed to address any of the specific factual or legal errors identified, violating the requirement for reasoned decision-making.

As a result, 2,347 locations that are currently served by Further Reach's qualifying ULFW network remain incorrectly classified in Appendix B3 (BEAD-eligible) rather than Appendix B4 (existing service exclusions). If not corrected, this error will result in approximately \$10.9 million in wasteful federal spending to overbuild existing broadband infrastructure—the precise outcome the RPN was designed to prevent.

## **II. PROCEDURAL BACKGROUND**

On June 28, 2025, Further Reach submitted ULFW Existing Service Claim CA-4540 for 2,348 BSLs. The Challenge Portal immediately reduced this to 572 locations, excluding 1,776 locations before any evidence review. On July 22, 2025, all 572 remaining locations were rejected with identical boilerplate language stating that Further Reach's "evidence does not demonstrate that the technology available at this location sufficiently mitigates interference."

On August 13, 2025, Further Reach submitted a Request for Reconsideration with supplementary evidence. The Commission never responded.

On September 24, 2025, Further Reach filed a Motion for Party Status, which was granted October 3, 2025.

On November 12, 2025, the Commission emailed Further Reach asking whether it serves certain high-cost locations. Further Reach responded the same day, identifying locations 1316249624 and 1316243048 as served. The Commission requested subscriber records for location 1316249624, which Further Reach provided on November 24, 2025. That location was accepted as existing ULFW service and appears in Appendix B4. Location 1316243048 was ignored entirely and remains awarded to SpaceX in Appendix B3.

On December 2, 2025, Draft Resolution T-17898 was published. On December 9, 2025, Further Reach filed Rule 14.5 comments identifying specific factual, legal, and technical errors. On December 18, 2025, the Commission adopted Resolution T-17898 without addressing any of Further Reach's specific arguments.

### III. LEGAL STANDARD

Public Utilities Code Section 1731 provides that any party to a Commission proceeding may apply for rehearing "in respect to matters determined in the action or proceeding." The application must "set forth specifically the grounds on which the applicant considers the decision or order to be unlawful or erroneous."

Under the *Topanga* doctrine, administrative agencies must "bridge the analytic gap between the raw evidence and ultimate decision." *Topanga Ass'n for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515. The agency must set forth findings that "expose the agency's mode of analysis" and enable meaningful judicial review. *Id.*

Additionally, in August 2025, the California Supreme Court rejected the "uniquely deferential" *Greyhound* standard previously applied to CPUC decisions. *Center for Biological Diversity, Inc. v. Public Utilities Commission* (2025). Courts must now "independently judge the text of the statute" rather than defer to CPUC interpretation.

### IV. THE RESOLUTION IS UNLAWFUL AND ERRONEOUS

#### A. The Commission Applied Inconsistent Evidentiary Standards

The most compelling evidence of arbitrary agency action is the Commission's treatment of Location 1316249624:

**June 2025:** Further Reach submitted comprehensive evidence for this location as part of Claim CA-4540, including PE certification, engineering analysis, and an 11-page technical narrative addressing every RPN Appendix A requirement. **Result: Rejected** for "insufficient interference mitigation."

**November 2025:** The Commission asked about the same location during high-cost reconciliation. Further Reach provided subscriber records. **Result: Accepted** as qualifying ULFW service (now in Appendix B4, Technology 70, Reason Code 5, Provider 430037).

Same location. Same network. Same service. Different standards. Opposite outcomes.

This inconsistency is not a matter of judgment or discretion—it is arbitrary agency action. The Commission cannot claim it followed "a uniform, technology-neutral approach

consistent with the RPN" (Resolution at 6) when the record shows *identical claims* receiving *opposite outcomes* based on *different evidentiary standards*.

Further Reach raised this specific inconsistency in its Rule 14.5 comments (Section 2). The Commission's response did not address it. This failure to engage with material evidence violates the *Topanga* requirement for reasoned decision-making.

### **B. The Commission Excluded 1,776 Locations Without Evidence Review**

Further Reach submitted Claim CA-4540 for 2,348 BSLs. The Challenge Portal "immediately reduced" this to 572 locations. The Commission has never explained why 1,776 locations were excluded before any evidence was reviewed.

The RPN establishes an evidence-based standard: "If a ULFW service provider demonstrates that it meets the requirements specified by this Policy Notice, the served locations will be ineligible for BEAD Program funding." RPN Section 4. Excluding locations *before* evaluating the provider's evidence violates this standard.

If the Commission applied a filter based on FCC technology code 70, that criterion appears nowhere in the RPN and contradicts the RPN's evidence-based approach. The RPN references code 70 solely for *notification* purposes—identifying which providers to contact—not as an eligibility criterion.

Further Reach raised this issue in its Rule 14.5 comments (Section 3). The Commission's response did not address it.

### **C. The Commission Rejected 571 Locations With Identical Boilerplate**

All 572 locations that proceeded to evidence review (571 after November acceptance of one location) received identical rejection language:

*"Provider's evidence does not demonstrate that the technology available at this location sufficiently mitigates interference, as required in the Unlicensed Fixed Wireless Service Requirements of the BEAD Restructuring Policy Notice."*

These 571 locations span varied geography, link distances, and interference environments—all detailed in Further Reach's submission. The 100% rejection rate with identical language proves no individualized, evidence-based determination occurred.

The RPN requires Eligible Entities to "determine whether ULFW providers have presented sufficient evidence." Appendix A. Using identical language for 571 diverse locations is not a "determination"—it is categorical rejection.

Further Reach raised this issue in its Rule 14.5 comments (Section 4). The Commission's response did not address it.

#### **D. The Commission's Response to Comments Failed to Address Specific Errors**

The adopted Resolution acknowledges receiving Further Reach's comments but responds only with boilerplate:

*"Staff followed the guidelines and requirements set forth in the BEAD RPN and other BEAD Program guidance when making preliminary award determinations."*

*"Staff followed the BEAD NOFO, RPN, and related guidance when determining BSL status."*

This response does not address:

- Why Location 1316249624 was rejected in June with PE-certified evidence but accepted in November with subscriber records
- Why Location 1316243048 was ignored entirely despite being raised in the same email
- Why 1,776 locations were excluded without review
- How identical rejection language constitutes individualized review
- What specific deficiency existed in the PE-certified evidence submitted

The *Topanga* doctrine requires the Commission to "bridge the analytic gap" between evidence and conclusion. Asserting compliance with guidelines is not the same as *demonstrating* compliance when the record shows otherwise. The Commission's failure to engage with the specific factual record renders the Resolution erroneous as a matter of law.

#### **E. Multiple Providers Raised Similar Concerns About Ignored Evidence**

Further Reach was not alone in identifying the Commission's failure to properly evaluate existing service claims. Optimum Communications filed comments asserting that the Commission ignored evidence demonstrating BEAD-compliant service to approximately 1,400 locations. Ducor Telephone Company, Varcomm, and Siskiyou Telephone Company

filed comments identifying 702 locations already served but proposed for BEAD awards. All received similar boilerplate responses.

This pattern confirms that the Commission's process was systematically deficient—not that Further Reach's evidence was uniquely inadequate.

## **V. THE RPN'S PURPOSE REQUIRES REVERSAL**

The RPN's stated purpose is to prevent "wasteful duplication of public funding through unnecessary subsidized overbuild." The RPN requires Eligible Entities to "*ensure*" that locations already served by qualifying ULFW service "are not included in awards for BEAD deployment projects." RPN Section 4.

The Commission's process was not reasonably capable of "ensuring" this outcome:

- 1,776 locations were excluded before evidence was reviewed
- 571 locations were rejected with boilerplate language
- Requests for reconsideration went unanswered
- Identical claims received opposite treatment
- No opportunity to cure was provided

If the Resolution stands, approximately \$10.9 million in federal funds will be used to overbuild 2,347 locations that are already served by Further Reach's qualifying ULFW network. This is precisely the waste the RPN was designed to prevent.

## **VI. RELIEF REQUESTED**

Further Reach respectfully requests that the Commission:

1. Grant this Application for Rehearing;
2. Vacate Resolution T-17898 to the extent it approves Appendix B3 and B4 classifications for Further Reach's 2,347 claimed locations;
3. Move Further Reach's 2,347 locations from Appendix B3 to Appendix B4 (Technology 70, Reason Code 5);
4. In the alternative, remand for proper evidence-based review applying consistent standards.

## **VII. CONCLUSION**

The Commission applied inconsistent evidentiary standards, excluded locations without review, rejected claims with boilerplate language, and failed to engage with specific factual and legal errors identified in public comments. These failures render Resolution T-17898 unlawful and erroneous under Public Utilities Code Section 1731.

Further Reach is not asking for special treatment. It is asking the Commission to recognize that 2,347 locations are already served by qualifying ULFW service and should not be overbuilt with federal funds.

Dated: 08 January 2026

Respectfully submitted,

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