

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



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Application of VELOCITY COMMUNICATIONS,
INC. for Rehearing of Resolution T-17896

**VELOCITY COMMUNICATIONS, INC. APPLICATION
FOR REHEARING OF PORTION OF RESOLUTION T-17896
AWARDING FEDERAL FUNDING ACCOUNT FUNDS
TO HOOPA VALLEY PUBLIC UTILITIES DISTRICT**

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Pursuant to Rule 16.2 of the Commission's Rules of Practice and Procedure, Velocity Communications, Inc. ("Velocity") hereby files this application for rehearing of the portion of Resolution T-17896 ("Resolution") granting \$39,789,177 from the last mile Federal Funding Account to the Hoopa Valley Public Utility District ("HVPUD") in Trinity and Humboldt counties. Velocity is not seeking rehearing on any of the other FFA awards in the Resolution. This Application identifies legal and factual errors in the Resolution and requests that funding for HVPUD be rescinded because HVPUD is not authorized to provide communications services in the areas for which it requested funding.

I. STANDARD OF REVIEW

The purpose of an Application for Rehearing is to alert the Commission as to legal error, in order to permit the Commission to correct it expeditiously.¹ As discussed in detail below, the Commission should revise Resolution T-17896 to correct legal and factual errors in the award of more than \$39 million to HVPUD from the Last Mile Federal Funding Account.

II. ELIBILITY TO FILE FOR REHEARING

Rule 16.2(b) permits an application for rehearing of a resolution to be filed by "any person who has served written comments on a draft or alternate resolution pursuant to Rule 14.5." Velocity filed comments on Draft Resolution T-17896 pursuant to Rule 14.5 on December 9, 2025. Therefore, Velocity is eligible to file this application for rehearing. Rule 16.1(a) requires that applications for rehearing must be filed "within 30 days after the date the Commission mails the order or decision." Resolution T-17896 was issued on December 18, 2025, therefore this application is timely.

¹ See Rule 16.1.

III. ERRORS IN RESOLUTION T-17896

A. HVPUD Failed to Obtain Permission to Use Its Utility District Authority to Operate in Trinity or Humboldt Counties

Resolution T-17896 grants \$39,789,177 to HVPUD,² a public utility district that lacks authority to provide communications services in the areas for which the FFA award was granted. Specifically, HVPUD lacks authority to provide service outside of its tribal service area unless it obtains authorization from both Trinity and Humboldt Counties.

Pursuant to Government Code Sections 56133 and 61106 (b), HVPUD was required to obtain permission from the Trinity County Local Agency Formation Commission (“LAFCO”) and the Humboldt County Local Agency Formation Commission (“LAFCO”) to provide services in their counties.³ California Government Code 56133 mandates that “[a] city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary *only if* it first requests and receives written approval from the commission of the county in which the affected territory is located.”⁴ This prohibition is absolute.⁵

HVPUD asserts that it is a division within the Hoopa Valley Tribe sovereign nation and therefore is not a utility district subject to California law.⁶ It then claims, “[w]e are therefore free to provide broadband services in other jurisdictions including Trinity and Humboldt Counties without approval under Section 56133.”⁷ HVPUD offered no explanation for why it is not defined as a public utility district covered by Sections 56133 and 61106 (b) despite clearly being a public utility district. These statutory sections do not exempt tribal entities from

² Resolution T-17896, p. 2.

³ Velocity Comments on Resolution T-17896, at p. 2, (Dec. 4, 2025).

⁴ Cal. Pub. Govt. Code §56133(a) (emphasis added).

⁵ Velocity Comments, at p. 2.

⁶ HVPUD Comments, at p. 2.

⁷ *Id.*; HVPUD Reply Comments, at p. 2.

the requirement to obtain permission of counties before attempting to offer service within their jurisdictional boundaries.

The Resolution accepts, without analysis, HVPUD's claims that is entitled to offer broadband services outside of its tribal boundaries, and simply notes Hoopa Valley Tribe's "historical connections to the land and area."⁸ But even if the areas that HVPUD seeks to serve with broadband were once tribal areas, HVPUD has no authority to engage in unauthorized activities on those lands.

While counties have little jurisdiction to regulate activities within tribal jurisdictional boundaries, the opposite is not true. When tribes conduct business outside their jurisdictional boundaries, their authority is severely circumscribed."⁹ The California Supreme Court held, "exercise of tribal power beyond what is necessary to protect tribal self-government or to control internal relations is inconsistent with the dependent status of the tribes, and so cannot survive without express congressional delegation."¹⁰ As an example, the U.S. Supreme Court held that Indian tribes could not regulate hunting and fishing on non-Indian lands, although the lands were within the boundaries of the Indian reservation.¹¹ Thus, the Supreme Court concluded that "[t]he sovereign power of Indian tribes to act on land that is neither tribal land nor within the confines of the reservation is a fortiori minimal."¹²

Section 56133 indisputably makes clear that the intent of the statute is to prevent this type of unauthorized action by HVPUD. LAFCOs had complained to the legislature "that some local agencies circumvent the Legislature's intent by merely signing contracts to serve outside

⁸ Resolution T017896, at p. 19.

⁹ *Boisclair v. Superior Court* (1990), 51 Cal. 3d 1140, 1157-1158.

¹⁰ *Id.* (citing *Montana v. United States* (1981), 450 U.S. 544, 564).

¹¹ *Id.*, at 1158.

¹² *Id.*

their boundaries without ever changing their boundaries.”¹³ Section 56133 was modified to make clear that cities and districts must first obtain LAFCO approval” before they can contract or agree to provide new or extended services outside their boundaries.”¹⁴

The Resolution does not provide any evidence that HVPUD obtained written approval from either Trinity or Humboldt County LAFCOs to provide telecommunications services outside of its existing boundary or that its boundary was legally expanded. Rather, the Resolution ignores the argument and notes only that “[a]s part of its application, Hoopa Valley PUD was required to demonstrate the administrative, technical, and operational capacity to provide broadband service at the scale of this project.”¹⁵ Even if true, such demonstration provides no evidence that HVPUD has *legal* capacity to provide broadband service in Trinity and Humboldt Counties. The Resolution was not modified in response to Velocity’s comments. The un rebutted evidence is that the Commission awarded federal money to a foreign government entity that lacks authority to operate in the service areas for which funds were awarded.

B. HVPUD Lacks Authority to Provide Broadband in California

If HVPUD’s argument is correct that it does not have status as a public utility district in California subject to state law, then it has no authority to provide broadband in California at all. Under California law, any entity or person that provides service to the public, or any portion thereof in California, it is a public utility subject to the jurisdiction, control and regulation of the Commission.¹⁶ Further, any person or entity that controls, operates or manages any telephone

¹³ Community Water Coalition v. Santa Cruz County Local Agency Formation Com., 200 Cal. App. 4th 1317, 1326, 134 Cal. Rptr. 3d 899, 905, 2011 Cal. App. LEXIS 1444, *13-14 (citing Assembly Bill [No.] 1335).

¹⁴ *Id.*

¹⁵ Resolution T-17896, at p. 19.

¹⁶ Cal. Pub. Util. Code §216.

line within California is a telephone corporation subject to the Commission’s jurisdiction.¹⁷ The Commission has asserted jurisdiction over broadband facilities, for example by imposing service quality rules.¹⁸

Entities providing public utility services must obtain a Certificate of Public Convenience and Necessity (“CPCN”) from the Commission.¹⁹ Tribal activities conducted outside of tribal boundaries are subject to nondiscriminatory state law otherwise applicable to all citizens of the State.²⁰ Thus if HVPUD desires to provide broadband services outside of the Hoopa Valley tribal boundaries, it is required to obtain a CPCN or similar authorization just like any other provider.²¹

If there were any doubt that HVPUD should have obtained a CPCN to provide broadband service outside of its territorial boundaries, such doubt was put to rest in 2012 when the Karuk Tribe obtained a CPCN to provide resold communications services in California in territories outside of its tribal borders. The Commission assigned Utility number U-7235-C to the Karuk Tribe. The Commission made clear when it issued the CPCN that if the Karuk Tribe wished to build facilities outside of its tribal area, it would be subject to California Public Utilities Code and the California Environmental Quality Act.²²

Subsequently, the Karuk Tribe applied to expand its CPCN to include full-facilities-based authority.²³ The Karuk Tribe explained that it was seeking expanded authority so that it

¹⁷ Cal. Pub. Util. Code §234.

¹⁸ See e.g., D.24-01-031, 2024 Cal. PUC LEXIS 58, *36-37 (Jan. 25, 2024) (“the Commission generally agrees with Cal Advocates that the small LECs should be required to demonstrate a high level of service quality delivered by the broadband facilities funded within this GRC. For this reason, the Commission agrees with Cal Advocates that Foresthill should monitor and report broadband service quality metrics to the Commission.”)

¹⁹ Cal Pub. Util. Code §1001.

²⁰ *Mescalero Apache Tribe v. Jones* (1973), 411 U.S. 145, 148-149.

²¹ Cal. Pub. Util Code §§216, 1001.

²² D. 12-08-026, at p. 4,6 (Aug. 23, 2012).

²³ A.21-02-002 (Feb. 3, 2021).

could construct the River Rural Broadband Project with \$6.6 million in CASF funds awarded in Resolution T-17418.²⁴ The KRRBI Project would provide 80 square miles of high-speed broadband service coverage to 616 households outside of the tribal boundaries in the California cities of Orick, Orleans, Johnsons, Wautech, Weitchpec, and other residences and businesses along the network build path.²⁵

HVPUD is no different. In order to provide broadband outside of tribal borders, HVPUD should have obtained a CPCN from the Commission. It did not do so. Given that HVPUD is not authorized to provide broadband, or any communications service, in the State of California, it is not eligible for FFA funding to provide broadband service in Trinity or Humboldt Counties.

C. Resolution Provides Funding to Overbuild Existing Broadband Facilities

Velocity also noted in its comments on draft Resolution T-17896 that it provides fixed wireless service in the application area. Hoopa Valley PUD did not rebut Velocity's evidence. Rather, it simply claimed that Velocity's comments reiterated its July 18, 2025, objection to the project application and urged the Commission to disregard Velocity's claim that the area is already served.²⁶

The Resolution errs factually and legally by disregarding Velocity's evidence that the area of the HVPUD FFA award is already served. D.22-04-055 explicitly notes that the Commission's Interim Final Rule allows FFA funding "to provide service to unserved or underserved households or businesses."²⁷ Thus, because FFA funding is available to serve both households and businesses, the presence of existing broadband services subscribed to by

²⁴ *Id.*, at p. 2.

²⁵ *Id.*

²⁶ Resolution T-17896, at pp. 18-19.

²⁷ D.22-04-055, at p. 73.

businesses must necessarily disqualify the service area of those businesses for FFA funding.

The HVPUD FFA application asserting that areas of Trinity and Humboldt Counties are unserved relies on outdated data, specifically the California Broadband Map as of December 31, 2023. The HVPUD proposed project area overlaps with areas already served with broadband by Velocity, which deployed 150/20 Mbps licensed-by-rule fixed wireless in much of the proposed project area during 2024. Velocity's deployed broadband was documented in the December 31, 2024, Federal Communications Commission Broadband Data Collection data submissions and 2024 CPUC Broadband Reporting.

The Resolution does not address, much less dispute, that HVPUD's proposed service area includes areas already served with broadband. Thus, it is not possible to determine why the Resolution awards federal money to overbuild already served areas. It is possible that the Commission, without explicitly stating its reasoning, has disregarded Velocity's broadband services because they are licensed-by-rule fixed wireless. Such services are considered "reliable" by the FCC and NTIA. The Commission recognized that wireless technology is reliable when it approved the Frontier/Verizon merger on January 15, 2026.²⁸ It noted that Verizon and Frontier asserted that their customer base had been eroded by competition from alternative technology providers such as fixed wireless operators because such competitors have lower cost models, are better resourced, and provide more service offerings at lower costs than wireline providers.²⁹

Areas served by licensed-by-rule fixed wireless at "served" speeds have indeed been deemed ineligible for BEAD funding. The same standard should be applied to FFA funding.

²⁸ The draft proposed decision and discussion of Commissioners during the January 12, 2026, oral argument conceded that wireless technology is reliable and may be the only feasible means of serving rural areas. See Proposed Decision in A.24-10-006, at p. 38.

²⁹ *Id.*

Awarding public funds to overbuild existing broadband facilities is contrary to the public interest, as the Commission has acknowledged in various proceedings, such as the Broadband Equity, Access, and Deployment (BEAD) proceeding, because insufficient funding exists to connect all unserved locations. If the Commission awarded funding to served locations, it would waste scarce resources that should be directed to connecting unserved and underserved communities with broadband.

In addition to licensed-by-rule fixed wireless, Velocity also offers fiber service in the Lewiston area with speeds up to 1/1 Gbps. This service is currently offered to business customers; however, Velocity is continuing to invest private funds to make service available to residences in the area during 2026.

IV. REQUESTED RELIEF

Velocity has identified substantive legal and factual errors in the portion of Resolution T-17896 that awards FFA funding to HVPUD. For all of the reasons set forth above, Velocity requests that Resolution T-17896 be modified by rescinding the FFA award to HVPUD.

Signed and dated January 16, 2026, at Walnut Creek, CA.

Respectfully Submitted,

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