

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



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Application of Brian C. Swanson, AICP for
Rehearing of Resolution T-17900.

**APPLICATION OF BRIAN C. SWANSON, AICP
FOR REHEARING OF RESOLUTION T-17900**

Filed by:

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I. INTRODUCTION

Pursuant to Rule 16.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure and Public Utilities Code §§ 1731–1732, I hereby apply for rehearing of Resolution T-17900 (Resolution), adopted January 15, 2026 and issued/mailed January 16, 2026. The Resolution awards two Last-Mile Federal Funding Account (FFA) grants to Contra Costa Transportation Authority (CCTA): (1) CCTA – West Contra Costa County (Ordering Paragraph 4) and (2) CCTA – East Contra Costa County (Ordering Paragraph 5), totaling up to \$14,935,556 in FFA funds. (Resolution T-17900 at p. 2, Table 1; p. 18, Ordering Paragraphs 4–5.)

Program purpose and context. Resolution T-17900 explains that California's multi-year broadband investment package established the last-mile Federal Funding Account as part of the Budget Act of 2021 and Senate Bill 156, investing \$2 billion in the program. The Resolution states that the FFA “funds the construction of last mile broadband infrastructure projects in unserved areas of California” and encourages broadband deployment to enable public access to internet-based safety applications, telehealth services, emergency services, and first-responder communications. (Resolution T-17900 at p. 3 (Background).) It further states that Decision (D.) 22-04-055 adopted FFA rules addressing, among other things, project eligibility, application requirements and objections, affordability commitments, and special consideration for Environmental and Social Justice Communities. (Id.)

This Application is focused on rehearing of the CCTA awards and related findings. The Resolution's treatment of the CCTA projects contains material factual error and prejudicial procedural defects that undermine the Commission's findings that the CCTA awards comply with program rules and advance the FFA's goal of building broadband infrastructure to communities without sufficient and reliable internet speeds. (See Resolution T-17900 at p. 17, Finding of Fact 12; p. 18, Ordering Paragraphs 4–5.)

In particular, the Application identifies: (1) a record-integrity error in which the Resolution attributes the same set of letters of support to two distinct CCTA projects without project-specific clarification, thereby overstating support and obscuring accountability; (2) a mischaracterization and dismissal of the sole timely written public comment that identified these factual errors; and (3) a resulting failure to proceed in the manner required by law because the Commission's findings and ordering paragraphs approving the CCTA awards are not supported

by an accurate record. These errors are material to whether the CCTA projects, as awarded, align with the FFA’s statutory and program purpose: connecting unserved Californians through last-mile broadband infrastructure. Petitioner’s equity concerns are not abstract; as explained in the January 1, 2026 comment, they include the risk that transportation-agency fiber deployments function as Intelligent Transportation Systems (ITS) and transportation-throughput infrastructure that can increase vehicle speeds and create or reinforce physical and social barriers in disadvantaged communities—especially where residents rely on low-cost active modes (walking, bicycling, and transit) and safe access is not analyzed or mitigated.

II. PARTY ELIGIBILITY AND TIMELINESS

Party Eligibility. Rule 16.2(b) provides that, for purposes of filing an application for rehearing of a resolution, “parties” include any person serving written comments on a draft or alternate resolution pursuant to Rule 14.5. I served timely written comments on Draft Resolution T-17900 on January 1, 2026 pursuant to the Notice of Availability and Rule 14.5; I therefore qualify as a party eligible to file this application for rehearing. A true and correct copy of my January 1, 2026 public comment on Draft Resolution T-17900 is attached as Exhibit A.

Public Utilities Code § 311(g)(1) requires public review and comment before the Commission votes, and the Commission implements that requirement for draft resolutions through Rule 14.5 and the Notice of Availability process; because I served comments under that process, I qualify as a party eligible to seek rehearing of this resolution.

Timeliness. Rule 16.1(a) requires that an application for rehearing be filed within 30 days after the date the Commission mails the order or decision. The Resolution states “Date of Issuance: January 16, 2026.” (Resolution T-17900 at p. 1.) This Application is timely.

III. PROCEDURAL BACKGROUND

On December 12, 2025, Communications Division staff issued a Notice of Availability for Draft Resolution T-17900, noticed for the January 15, 2026 Commission Business Meeting, and provided a January 1, 2026 deadline for opening comments and a January 6, 2026 deadline for reply comments.

On January 1, 2026, I submitted and served written comments identifying, among other issues, (a) material factual error in the draft resolution’s conflation of the two CCTA projects and

misattribution of support letters, and (b) the need for transparent posting and maintenance of the complete administrative record. A true and correct copy is attached as Exhibit A.

My January 1, 2026 written comment recommended that the Commission incorporate the following changes into the Resolution (summarized here for convenience):

1. Correct the Misattribution of Jurisdictional Support.

Revise all sections that imply or state that East County jurisdictions support the West County project, and vice versa. Support should be attributed only to jurisdictions with an immediate geographic relationship to the project area.

2. Add a Clear Statement of CCTA's Actual Project Purpose.

Explicitly distinguish between (a) broadband-equity objectives intended by the Federal Funding Account/California Advanced Services Fund and (b) ITS objectives that increase vehicle throughput and speeds.

3. Require Disclosure and Analysis of Equity and Active Transportation Impacts.

Require CCTA to identify existing active transportation facilities along proposed routes, evaluate how increased vehicle speeds and throughput will affect disadvantaged communities, and describe mitigation measures or infrastructure improvements to ensure safe walking and bicycling.

4. Require Correction of All Maps, Tables, and Narrative Descriptions.

Correct all geographic references, project descriptions, and jurisdictional listings to accurately reflect the project boundaries, communities served, and jurisdictions providing actual support.

5. Require CCTA to Demonstrate Compliance With Program Intent.

Require evidence that the projects serve unserved or underserved communities, demonstrate the project is not primarily an ITS infrastructure enhancement, and explain how the project avoids replicating past transportation-driven inequities.

6. Require Posting of All Materials in HTML and Searchable PDF Formats.

Require that all public comments, staff reports, attachments, and application materials be posted in HTML and searchable PDF adjacent to the agenda item, reachable within one or two clicks, with link integrity actively maintained.

On January 15, 2026, the Commission adopted Resolution T-17900 without modification in response to comments. (Resolution T-17900 at p. 15 (Staff Response: “In response to comments, no modifications were made to the resolution.”).) I also provided oral public comment by

telephone during the January 15, 2026 Business Meeting. A true and correct copy of my oral public comment script is attached as Exhibit B

On April 16, 2025, I submitted public comment regarding CCTA’s Countywide Broadband Strategic Plan and CCTA’s use of CPUC broadband-related funding to advance ITS and smart-signal objectives. A true and correct copy of that comment (redacted) is attached as Exhibit C.

IV. STANDARD FOR REHEARING

Rule 16.1(c) and Public Utilities Code § 1732 require an applicant to state specifically the grounds on which the applicant considers the Commission’s order or decision to be unlawful or erroneous, with specific references to the record or law. Public Utilities Code § 1705 requires Commission decisions to include findings and conclusions supported by the record. Public Utilities Code § 311(g)(1) and Rule 14.5 provide the public review-and-comment framework for draft resolutions, including Draft Resolution T-17900.

V. GROUNDS FOR REHEARING

Ground 1: The Resolution contains material factual error by attributing an identical set of letters of support to two distinct CCTA projects.

The Resolution describes two separate CCTA projects—one in West Contra Costa County and one in East Contra Costa County—with distinct scopes, geographies, and project areas. (See Resolution T-17900 at pp. 10–13 (CCTA – West Contra Costa County; CCTA – East Contra Costa County).)

However, in each of the two CCTA project narratives, the Resolution lists the same set of “letters of support” as having been submitted for “this application.” For CCTA – West Contra Costa County, the Resolution lists letters from: Contra Costa County Board of Supervisors Chair Candace Andersen; City of Antioch City Manager Bessie Scott; City of El Cerrito Mayor Carolyn Wysinger; City of Hercules City Manager Dante Hall; City of Lafayette Mayor Susan Candell; City of Oakley City Manager Joshua McMurray; City of Pittsburg City Manager Garrett Evans; City of Walnut Creek Mayor Cindy Darling; and City of Brentwood Interim City Manager Darin Gale. (Resolution T-17900 at p. 11, paragraph beginning “The following submitted letters of support for this application...”.)

For CCTA – East Contra Costa County, the Resolution repeats the same nine letters of support. (Resolution T-17900 at p. 12, paragraph beginning “The following submitted letters of support for this application...”.)

This presentation is materially misleading because it implies that each listed jurisdiction or official submitted project-specific support for each project as proposed, even though the two projects are geographically distinct. At minimum, the Resolution must clarify which letters support which project and must not attribute a single, identical support list to two different projects without project-specific identification. Because local feedback and support are part of the record used to recommend and approve these awards, this error is prejudicial and warrants rehearing.

Competitive Evaluation and Record Distortion. The Last-Mile Federal Funding Account (FFA) operates as a competitive grant program with finite funds, in which applications are evaluated comparatively on a county basis and staff assesses how applications compare to competing applications in the same county. Where a single applicant submits two separate applications for two separate sub-regional projects—here, CCTA – West Contra Costa County and CCTA – East Contra Costa County—each project must stand on its own record and merits. Even if the program rules do not prohibit letters of support from jurisdictions outside a project area, presenting an identical set of letters as though they are “for this application” in both project narratives distorts the evidentiary record in a competitive award process. The issue is not whether cross-jurisdiction letters may exist; the issue is that the Resolution’s presentation materially inflates the appearance of project-specific support for each project, obscures accountability, and prevents a clear, project-area-specific evaluation of local alignment. In a needs-based competitive program intended to connect unserved Californians and to incorporate digital-equity considerations, accurate representation of project-area support is material to the Commission’s findings and to the public’s ability to test the basis for each award.

Errors of Law (Ground 1):

1.1 Public Utilities Code § 1705: The Resolution’s findings that rely on “local feedback” and support for the CCTA awards are unsupported as applied to CCTA where the Resolution attributes an identical set of support letters to two distinct projects without project-specific identification.

1.2 Prejudicial procedural error: A material misstatement of project-specific support is not harmless. It affects the Commission’s evaluation of the CCTA applications and the public’s ability to understand and test the basis for the awards; rehearing is warranted to correct the record before funds are disbursed.

Ground 2: The Resolution mischaracterizes and dismisses the sole timely written public comment identifying factual error, undermining administrative record integrity.

The Resolution acknowledges receipt of a single timely written comment on January 1, 2026 (my comment) responding to the two CCTA projects. (Resolution T-17900 at p. 15 (Comments).)

The Resolution’s summary states that I asserted the resolution incorrectly attributed support letters from entities outside the projects’ jurisdictions, and it notes that I raised equity implications. (Resolution T-17900 at p. 15.) The staff response then states that “Many of the comments submitted are outside of the scope of this resolution,” and, with respect to the support-letter issue, responds only that D. 22-04-055 does not “limit or restrict” government and community support. (Id.) The Resolution then states: “In response to comments, no modifications were made to the resolution.” (Id.)

This response does not address the factual error identified: the Resolution’s attribution of the same support list to two distinct projects without project-specific identification. A statement that letters of support are not “restricted” by rule is not a response to whether the Resolution accurately attributes which letters apply to which project. By misframing the issue and declining to correct the record, the Resolution compromises the integrity of the administrative record and prejudices Commission review.

Errors of Law (Ground 2):

2.1 Public Utilities Code § 311(g)(1) and Rule 14.5 (public review/comment): The draft-resolution comment process is designed to surface factual, legal, and technical errors before adoption. Dismissing a pointed factual record correction as “outside scope” and adopting the Resolution without modification is prejudicial procedural error.

2.2 Public Utilities Code § 1705: By misframing the record-correction issue and declining to correct the identified factual error, the Commission adopted findings and ordering paragraphs that are not supported by an accurate record as applied to CCTA.

Ground 3: The Resolution’s findings and ordering paragraphs approving the CCTA awards are not supported by the record and therefore are unlawful or erroneous (Pub. Util. Code § 1705; D. 22-04-055 and Appendix A).

Public Utilities Code § 1705 requires Commission decisions to contain separately stated findings of fact and conclusions of law on all issues material to the order or decision, supported by the record. The Resolution’s Findings of Fact state that Communications Division staff “reviewed local feedback” and recommend approval because the applications comply with program rules and contribute to the Federal Funding Account’s goal of building broadband infrastructure for communities without sufficient and reliable internet speeds. (Resolution T-17900 at p. 17, Findings of Fact 10 and 12.) That program purpose derives from D. 22-04-055, which adopted Federal Funding Account rules for a two-billion-dollar grant program focused on building broadband internet infrastructure to communities without access to internet service at sufficient and reliable speeds. (D. 22-04-055 at p. 2 (Summary).)

However, as shown in Ground 1, the Resolution’s presentation of local support for each CCTA project is materially misleading because it attributes the same set of letters of support to two distinct projects without project-specific identification. The Resolution then dismisses the only written comment identifying these factual errors and adopts the Resolution without modification. (Resolution T-17900 at p. 15.) This leaves Findings of Fact 10 and 12 unsupported by an accurate record as applied to the CCTA awards.

Because the Commission’s approval of the CCTA awards (Ordering Paragraphs 4 and 5) rests on findings that incorporate an inaccurate presentation of local feedback/support, and because the Commission did not correct the record after being notified during the public comment process, the Commission has not proceeded in the manner required by law and the Resolution fails to satisfy Public Utilities Code § 1705 as to the CCTA awards. Rehearing is necessary to correct the record and to ensure that any approval of the CCTA awards is supported by findings on material issues. (Resolution T-17900 at p. 18, Ordering Paragraphs 4–5.)

Errors of Law (Ground 3):

3.1 Public Utilities Code § 1705: The Commission’s approval of the CCTA awards (Ordering Paragraphs 4–5) relies on findings that incorporate “local feedback” and compliance with program rules, yet the record of project-specific support is materially misstated

(Grounds 1–2). Findings resting on an inaccurate record are unlawful or erroneous as applied to CCTA.

3.2 D. 22-04-055 and Appendix A (program purpose and integrity): The Resolution approves two large awards to a transportation authority without requiring the disclosures, certifications, and cost allocation necessary to ensure reimbursements are limited to eligible last-mile broadband infrastructure serving unserved locations (and not, in practice, ITS and transportation-throughput backbone enhancements).

3.3 Equity as raised in the timely public comment: Petitioner explained that “equity” here includes avoiding transportation-driven inequities—community severance and safety harms from increased vehicle speeds/throughput on arterials and collectors—particularly in disadvantaged communities where residents rely on low-cost active modes (walking, bicycling, and transit). The Resolution does not address these equity concerns or require the project-route active-transportation disclosures, impact evaluation, or mitigation measures requested in the January 1, 2026 comment (Exhibit A).

Ground 4: The Resolution should be modified to clearly state the program purpose and governance of the Last-Mile Federal Funding Account, to prevent public confusion and ensure transparency.

The Resolution uses the term “Federal Funding Account” throughout. In Background and Findings of Fact, the Resolution explains that the program was established as part of California’s multi-year broadband investment package (Budget Act of 2021 and SB 156), and that D. 22-04-055 adopted program rules (with reference to a “Federal Funding Account Rules” and “Federal Final Rule”). (Resolution T-17900 at p. 3 (Background); pp. 15-16, Findings of Fact 1–2.)

Given the program’s stated purpose—funding construction of last-mile broadband infrastructure in unserved areas to connect unserved Californians and deliver public safety, telehealth, and emergency-communications benefits (id. at p. 3; p. 15, Finding of Fact 1; p. 17, Finding of Fact 12)—the Resolution should be modified on first reference to succinctly and accurately describe the FFA as a Commission-administered last-mile broadband grant program established by state law and Commission decision, governed by D. 22-04-055 and applicable federal administrative requirements referenced in the Resolution. (Resolution T-17900 at p. 14 (Payments; federal administrative requirements referenced in footnote).)

In addition, D. 22-04-055 and Appendix A incorporate digital-equity considerations in how the Commission identifies and prioritizes eligible areas. For example, D. 22-04-055 directs Communications Division to publish priority areas with demographic and digital-equity information such as disadvantaged community status and other measures of broadband need, and updates scoring criteria to consider disadvantaged communities. (D. 22-04-055 at p. 25; id. at pp. 100-102.) Appendix A similarly requires publication of priority areas with digital-equity information and analysis. (D. 22-04-055, Appendix A at A-6 and A-7.) Given these program rules and objectives, the Resolution should clearly describe the governing framework and should not dismiss program-integrity and equity concerns as “outside scope” where the comment identifies factual error and raises issues material to lawful approval of these awards.

Errors of Law (Ground 4):

4.1 Public Utilities Code § 1705: A Commission resolution must rest on findings supported by an accurate and transparent record. Where the Resolution repeatedly uses the label “Federal Funding Account” while also referencing federal administrative requirements, it should include an early clarifying statement of program governance so the public can evaluate compliance and accountability.

4.2 D. 22-04-055 and Appendix A: Because the Last-Mile Federal Funding Account is established and governed by Commission decision (with digital-equity and disadvantaged-community considerations referenced in the governing rules), the Resolution’s framing should not obscure the governing framework or dismiss program-integrity and equity concerns as “outside scope” where the comment identifies record error and issues material to lawful approval.

VI. REQUESTED RELIEF

For the foregoing reasons, I respectfully request that the Commission grant rehearing and order the following relief with respect to the CCTA awards:

1. Grant rehearing of Resolution T-17900 as it pertains to CCTA, including Ordering Paragraphs 4 and 5 and any related Findings of Fact and Conclusions of Law.

2. Set aside (vacate) Ordering Paragraphs 4 and 5, and remand the CCTA applications to Communications Division with direction to issue a revised draft resolution for public comment that: (a) correctly identifies and attributes letters of support on a project-area-specific basis for each CCTA project (and corrects any conflation of East/West project support); and (b) incorporates, as enforceable conditions or required findings, the recommended corrections and disclosures raised in the January 1, 2026 comment, including the six recommended changes summarized in Section III above.
3. In the alternative to vacatur, modify the Resolution to correct the administrative record and to incorporate, at minimum, the six recommended changes raised in the January 1, 2026 written comment, including: (a) project-area-specific attribution of letters of support; (b) an explicit statement distinguishing last-mile broadband objectives from any ITS and transportation-throughput objectives; (c) required disclosure and analysis of equity and active transportation impacts and mitigation; (d) correction of maps, tables, and narrative descriptions; (e) required demonstration of compliance with program intent (serving unserved/underserved locations and avoiding ITS-only enhancements); and (f) durable public posting of the administrative record materials in searchable formats adjacent to the agenda item.
4. Modify the Resolution’s “Comments” section to accurately frame and respond to the identified factual errors, and to avoid dismissing record-correction requests as “outside scope” where the comment expressly identifies factual error in the Resolution text. (Resolution T-17900 at p. 15.)
5. Modify the Resolution to include an explicit, early statement of the Last-Mile Federal Funding Account’s purpose and governing framework. Consistent with D. 22-04-055, the Resolution should state that the Federal Funding Account is a Commission-administered grant program (created by SB 156) focused on building broadband internet infrastructure to communities without access to internet service at sufficient and reliable speeds, and that awards are governed by D. 22-04-055 and Appendix A (including digital-equity and disadvantaged-community considerations in priority areas/scoring), as well as applicable federal administrative requirements referenced in the Resolution. (D. 22-04-055 at p. 2 (Summary); D. 22-04-055 at p. 25; D. 22-04-055, Appendix A at A-6 and A-7; Resolution T-17900 at pp. 3–4; pp. 14 (Payments); pp. 15-16, Findings of Fact 1–2; p. 17, Finding of Fact 12.)

6. Issue an interim stay, or direct Communications Division staff to withhold authorization of reimbursements/payments to CCTA under the Resolution pending disposition of this rehearing application, including reimbursements for pre-construction “project development” activities, because Appendix C otherwise permits use of initial funding for non-construction activities prior to CEQA completion. (Resolution T-17900 at p. 23 (Appendix C CEQA Compliance Requirements).)

Grant such other and further relief as the Commission deems just and proper.

VII. LIST OF EXHIBITS

Exhibit A – January 1, 2026 Public Comment on Draft Resolution T-17900 (Redacted) (PDF).

Exhibit B – January 15, 2026 Oral Public Comment Script (Business Meeting, Item 41; Resolution T-17900) (PDF).

Exhibit C – April 16, 2025 Public Comment on CCTA Countywide Broadband Strategic Plan (Redacted) (PDF).

VIII. VERIFICATION / DECLARATION

I, Brian Swanson, declare under penalty of perjury under the laws of the State of California that the facts stated in this Application for Rehearing are true and correct to the best of my knowledge, information, and belief.

Executed on February 17, 2026, at San Ramon, California.

/s/ Brian C. Swanson

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