

Decision 25-05-029

May 15, 2025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of The Ponderosa Telephone
Co. (U 1014 C) for Rehearing of
Resolution T-17850

Application 24-11-010

ORDER DENYING REHEARING OF RESOLUTION T-17850

In this Order, we dispose of the application for rehearing of Resolution (Res.) T-17850 filed by The Ponderosa Telephone Co. (Ponderosa). We have determined that good cause has not been demonstrated to grant rehearing of the Resolution.

I. BACKGROUND

On October 21, 2024, we issued Resolution (Res.) T-17850. Res. T-17850 approves two Last Mile Federal Funding Account (FFA) grants in an amount of up to \$23,036,295.

Res. T-17850 is part of the seventh package of Resolutions approving grants to FFA applicants for broadband infrastructure projects serving unserved areas. The two projects addressed in Res. T-17850 propose to bring high-speed broadband to 2,843 unserved locations and an estimated unserved population of 8,174 in Madera and Napa counties. Res. T-17850 estimates that a total population of 8,301 people will benefit from greater customer choice in the broadband market. Res. T-17850 awards a \$16,987,890 grant to Comcast for Madera County and a \$6,048,405 grant to AT&T for Napa County. Comcast and AT&T are incumbent telecommunication companies offering service throughout California.

An application window for FFA grants was opened on June 30, 2023, and closed at 4 p.m. on September 29, 2023; 484 applications were submitted. Application summaries were posted on October 23, 2023, and a 28-day objection period closed on

November 20, 2023. Ponderosa did not file an objection to the Comcast Madera County FFA application during the official objection period from October 23 to November 20, 2023.

On September 12, 2024, Commission staff issued draft Resolution T-17850 for comment, which proposed to approve two FFA applications, including Comcast's Madera County application. Ponderosa filed comments on the draft Resolution on October 2, 2024, stating its opposition to the award to Comcast for the Madera County project because it overlaps with Ponderosa's service territory in the Bonadelle Ranchos Nine development, where Ponderosa claims it has deployed broadband-capable facilities and claims to have near-term plans to deploy fiber to the premises in that area. Ponderosa's opposition to Comcast's proposed Madera County project relates specifically to 166 locations within the Bonadelle Ranchos Nine development. Ponderosa acknowledged in its comments on the draft Resolution that it did not object to the Comcast Madera County application during the official objection period, but it did submit an objection for locations included in the Comcast Madera County application in response to the Cal.net Madera County application.

On October 17, 2024, the Commission adopted Res. T-17850 and approved the two FFA applications. On November 20, 2024, Ponderosa filed an application for rehearing of Res. T-17850. In its rehearing application, Ponderosa alleges that by authorizing funding of broadband facilities in an area that may include unserved, underserved and served locations, the Resolution constitutes a failure to proceed in the manner required by law and an abuse of discretion. Comcast filed a response to Ponderosa's rehearing application on December 5, 2024.

We have reviewed the allegations of error contained in the application for rehearing of Res. T-17850 and have determined that good cause has not been demonstrated to grant rehearing of the Decision.

II. DISCUSSION

A. **Rehearing is unwarranted because Ponderosa failed to object within the required objection period.**

The Commission adopted guidelines and rules for FFA grants in (D.) 22-04-055, *Decision Adopting Federal Funding Account Rules*, including rules for objecting to FFA applications. In D.22-04-055, we made clear that objections to project applications that are submitted after the comment/objection deadline will not be considered:

An objection must identify and discuss an error of fact, or policy or statutory requirement that the application has contravened. Comments must be submitted no later than 14 calendar days, or a different date set by Staff, from when the notice of the application is served on the [California Advanced Services Fund] Distribution List. Comments filed after the deadline will be deemed denied.

(D.22-04-055, App. A at A-21 to A-22.)

It is undisputed that Ponderosa did not file objections to Comcast's FFA application within the specified time period. In its comments on the draft Resolution, Ponderosa states the following with respect to its failure to object within the specified FFA objection period:

Ponderosa did not object to this portion of Comcast's FFA application when the California Public Utilities Commission ("Commission") noticed FFA applications in the fourth quarter of 2023 and opened a window for serving objections. As best as can be ascertained by Ponderosa, the scope of the Comcast FFA application in Madera County escaped Ponderosa's attention.

(Ponderosa Comments on draft Res. T-17850 (October 2, 2024), p. 2.)

In its rehearing application, Ponderosa states the following regarding its failure to timely object to Comcast's FFA application:

Ponderosa was not aware of the full scope of Comcast's Madera County project as of the date the objections were due, so it did not comment on or object to the project in November 2023.

(Ponderosa Application for Rehearing of Res. T-17853 (Reh. App.), p. 2.) Ponderosa does not allege that there was any deficiency in the notice provided to interested parties with respect to Comcast's FFA application.¹

Ponderosa's first filing with respect to the Comcast FFA application was a set of comments filed on October 2, 2024 in response to the issuance of the draft version of Res. T-17850. (Reh. App., p. 2.) These comments were filed almost 11 months after objections to Comcast's FFA application were due. Res. T-17850 notes the following as to Ponderosa's failure to object within the specified time period:

Staff notes that all entities were given an opportunity to object to applications under the detailed and data-driven process under the program rules. The objection period was lengthened in light of the number of applications. Ponderosa Telephone Company had an opportunity to object during the 28-day objection period that lasted from October 23, 2023 to November 20, 2023 and did not file an objection to Comcast during that period. Furthermore, Staff determined that the objector did not provide sufficient documentation in its Cal.net objection to substantiate a claim that it would serve the project area. Staff has not modified the Comcast Madera County project area, grant amount, or locations in response to comments on the draft Resolution.

(Res. T-17850, p. 10.)

D.22-04-055 articulates the reason why timely submission of objections is important to evaluating FFA applications. D.22-04-055 states:

The Commission will provide a period during which interested persons may review the grant applications that have been submitted and file written comments objecting to an application under review. The Commission will consider these comments in reviewing the application. Any party that objects to a proposed area as already served must provide definitive evidence that the area is in fact already served.

¹ Ponderosa participated in Rulemaking (R.) 20-09-001, which is the proceeding in which D.22-04-055 was issued. Ponderosa filed comments on rulings and drafts in R.20-09-001. (D.22-04-055, pp. 4-5.)

(D.22-04-055, App. A at A-21.) Timely submission of objections and comments to FFA applications allows Commission Staff an opportunity to consider these arguments in analyzing the merits of each application, and prior to issuing a draft Resolution authorizing a grant of FFA funds. The fact that Ponderosa submitted its first comments on Comcast's FFA application after Commission Staff analysis of the applications was completed and the draft Resolution had been issued demonstrates the problem with this approach. Such delay, unexplained by Ponderosa, deprives both the Commission and other interested parties of an opportunity to consider such arguments as the draft Resolution is being developed and prepared, a period which lasted almost 11 months in this particular instance. As Comcast notes in its response to Ponderosa's rehearing application, "[d]uring the FFA application phase, Comcast was not put on notice that Ponderosa objected to its Madera County Project application (since Ponderosa did not file comments objecting to the Project) and thus had no opportunity to review Ponderosa's claims or submit its own evidence to refute Ponderosa's claims, as the FFA Rules permit." (Comcast Response to Ponderosa Reh. App. (December 5, 2024), p. 8.)

As discussed above, Ponderosa failed to object to Comcast's FFA application within the timeline articulated in D.22-04-055. D.22-04-055 makes clear that comments filed after the deadline will be deemed denied. (D.22-04-055, App. A at A-21 to A-22.) For this reason, Ponderosa's challenge to Res. T-17850 is denied as untimely.

B. Rehearing is unwarranted because Ponderosa fails to demonstrate legal error.

Even if Ponderosa had objected to Comcast's FFA application during the required objection period, Ponderosa's remaining challenges to Res. T-17850 are without merit. Ponderosa asserts that Res. T-17850 improperly authorizes an "overbuild" applicable to 166 locations within the Bonadelle Ranchos Nine development in Madera County, and that such Commission authorization constitutes a failure to proceed in the manner required by law and an abuse of discretion. (Reh. App., pp. 4-7.) Ponderosa's allegations lack merit for three reasons.

First, while Ponderosa’s rehearing application alleges that Res. T-17850 authorizes an improper “overbuild” in the Bonadelle Ranchos Nine subdivision, there is nothing per se improper about authorizing deployment of broadband service in an area containing unserved, underserved and served locations. (See D.22-04-055, pp. 73-74 (unserved or underserved households or businesses need not be the only households or businesses in the service area receiving funds); see also Res. T-17855, pp. 4, 10 (funding for infrastructure through served areas may be necessary to reach unserved locations and Commission Staff may assess how to manage overlapping applications and applications planning to include some already-served areas in their project area).) Thus, there is nothing inherently improper about Comcast’s grant including unserved, underserved, and served areas.

Second, Res. T-17850 does not conclusively establish what Comcast’s buildout will ultimately look like in Madera County or the amount that Commission Staff will approve in terms of Comcast’s expenditures for the project. (See Res. T-17850, pp. 4, 10 (Commission Staff will confer with Comcast regarding the specific locations to be provided service for the Madera County project and the grant amount may be reduced consistent with a reduction in the number of locations).) While Res. T-17850 authorizes a buildout in Madera County that may overlap with the 166 locations in the Bonadelle Ranchos Nine development, it has not been conclusively determined whether the final project will ultimately include those locations. D.22-04-055 notes that the FFA rules provide “the Commission with significant discretion for developing [FFA] program eligibility requirements.” (D.22-04-055, p. 19.)

Finally, Ponderosa’s allegations lack merit because the record does not support that Ponderosa is currently able to serve, or will imminently be prepared to serve, these 166 locations with the broadband speeds articulated by the FFA program.

Assuming that Ponderosa does currently serve this area with 25/3 Mbps broadband service, as asserted in its rehearing application, such speed is below the desired 100/100 Mbps speed articulated in the FFA rules. (Reh. App., p. 5; see also D.22-04-055, pp. 19-20, Attachment A, p. A-6 (FFA rules encourage recipients to prioritize projects that are

designed to reliably deliver at least 100 Mbps of download speed and 100 Mbps of upload speed).) Further, while Ponderosa asserts that it intends both to upgrade its broadband speed and to offer a low-income broadband plan, it did not have specific agreements or approved construction plans in place to achieve these goals at the time the Comcast application was evaluated by Commission Staff. For these reasons, Res. T-17850 reasonably approves the inclusion of 166 locations in the Bonadelle Ranchos Nine subdivision within Comcast's Madera County project area.

For the reasons discussed above, even assuming Ponderosa had objected to Comcast's FFA grant application in a timely manner, its challenge to Res. T-17850 is without merit.

III. CONCLUSION

As discussed above, we have determined that good cause has not been demonstrated to grant rehearing. As such, rehearing of Res. T-17850 should be denied.

THEREFORE, IT IS ORDERED that:

1. Rehearing of Resolution T-17850 is hereby denied because no legal error has been demonstrated.

2. This proceeding, Application 24-11-010, is closed.

This order is effective today.

Dated May 15, 2025, at Kings Beach, California.

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

MATTHEW BAKER

Commissioners