

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
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May 18, 2020

**Via Electronic Filing**

Ms. Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: RDOF Phase I Auction Challenges Filed by Carriers on Census Blocks in California;  
WC Docket No. 19-126**

Dear Ms. Dortch:

Based on comments the California Public Utilities Commission (“CPUC”) has submitted in this docket, CPUC staff is concerned with the challenge process and with the challenges filed by numerous stakeholders in the Rural Digital Opportunity Fund (“RDOF”) Phase I. To date, there have been approximately 200 challenges filed with the Federal Communications Commission (“FCC”) on the eligible census blocks identified for RDOF Phase I.<sup>1</sup> Collecting and analyzing data from these challenges has been difficult given the lack of an established process for submitting consistent data. The numerous challenges filed are extensive, some exceeding 100 pages, with most of them, but not all, in PDF format. Challenges have been filed in different formats because the FCC has not established any submittal standards.

To complicate matters further, several companies have filed clarifications revising their original challenges, and many parties have filed rebuttals to the challenges. The rebuttals raise serious concerns about the validity of the challenge data showing areas purportedly served at 25/3 Megabits per second (“Mbps”).

The magnitude of the filings involved, together with the lack of procedural standards for challenge data, leads CPUC staff to believe that the RDOF Program itself is at risk due to challenges asserting large portions of areas are already served, whereas in many instances that is not the case.<sup>2</sup> Without careful review of these challenges, eligible census blocks in rural

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<sup>1</sup> The National Exchange Carrier Association (“NECA”) provides a list of challenges filed: <https://prodnet.www.neca.org/publicationsdocs/wwpdf/4620challenge.pdf>. However, not all challenges filed may be listed.

<sup>2</sup> See “FCC Receives Over 180 RDOF Eligible Area Challenges, Including Some Big Ones from WISPs” at <https://www.telecompetitor.com/fcc-receives-over-180-rdof-eligible-area-challenges-including-some-big-ones-from-wisps/>. The article states, “[t]he top challenger was Digital Path, which challenged more than 40,000 census

California may be erroneously removed from the RDOF process. This would have a disastrous impact on these areas, which will fall on the wrong side of the Digital Divide, likely for years to come.

In California alone, CPUC staff estimates that incumbent carriers and providers have challenged areas of RDOF eligibility impacting what appears to be hundreds of thousands of housing units, potentially reducing needed federal broadband dollars for our state by hundreds of millions of dollars.<sup>3</sup> Nationally, as we certainly hope the FCC has come to understand, the significant potential loss to rural America is far greater. CPUC staff will continue to analyze the data from the many challenges filed in California areas. At this time, however, due to the lack of accessible or verifiable data and standards for submitted information, we are uncertain of the time or resources this effort will require.

Given the lack of a uniform submittal procedure, open and accessible data, a formal rebuttal process, and consistent with positions the CPUC has advanced, CPUC staff urges the FCC to reject all the challenges before moving forward with RDOF Phase I. At this juncture, any public benefits of the auction, and the large public investment represented by RDOF Phase I, will be jeopardized if this haphazard challenge process is left to stand. If the challenges are not dismissed in whole now, thousands of square miles of rural America and millions of unserved Americans are at risk to remain unserved after RDOF concludes.

Respectfully submitted,

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blocks, followed by North Coast Wireless Communications LLC (over 30,000) and Resound Networks (over 20,000). These companies and all other challengers in the top 10 aside from Frontier and Consolidated are WISPs.”

<sup>3</sup> Letter from Conexon, LLC, to Marlene H. Dortch, Secretary, FCC (May 5, 2020) Re: Reply to RDOF Phase I Auction Challenge Filed by Frontier Communications Corporation (on file in WC Docket No. 19-126).