

**CALIFORNIA STATE BOARD OF EQUALIZATION**

**SUMMARY DECISION UNDER REVENUE AND TAXATION CODE SECTION 40**

In the Matter of the Petition for  
 Reassessment of the 2024 Unitary Value for:  
**RACE TELECOMMUNICATIONS, LLC**  
**(8099)**  
 Petitioner

Appeal No.: SAU 24-016

Nonappearance Hearing Date:  
 November 19, 2024<sup>1</sup>

**Representing the Parties:**

For the Petitioners:

Ruben Miranda, Representative  
 Kroll, LLC

Ryan Ivey, Representative  
 Kroll, LLC

For the Respondent:

Eric Boeing, Attorney III  
 Attorney for State-Assessed Properties Division

Michelle Cruz  
 Principal Property Appraiser  
 State-Assessed Properties Division

Appeals Attorney:

Christian Younger, Attorney III

**VALUES AT ISSUE**

	<u>Value</u>	<u>Penalty</u>	<u>Total</u>
2024 Board-Adopted Unitary Value	\$320,800,000	\$0	\$320,800,000
Petitioner’s Requested Unitary Value	\$140,544,537	\$0	\$140,544,537
Respondent’s Appeal Recommendation	\$320,800,000	\$0	\$320,800,000
Board Determined Value	\$320,800,000	\$0	\$320,800,000

<sup>1</sup> At the nonappearance hearing, the Board denied the petition by a unanimous vote, with Chair Lieber, Vice-Chair Gaines, Member Schaefer, Member Vazquez, and Controller Cohen voting aye.

1 **Factual Background**

2 Race Telecommunications, LLC (Petitioner) operates a fiber-based telecommunications  
3 network providing voice, video, broadband internet access, and data service-related infrastructure in  
4 unserved or underserved areas in California.

5 Petitioner's 2024 Board-adopted unitary value of \$320,800,000 is based on a 100 percent  
6 reliance on the Replacement Cost New Less Depreciation (ReplCLD) value indicator.

7 On appeal, Petitioner contends that their 2024 Board-adopted unitary value is overstated and  
8 requests a revised unitary value of \$140,544,537. Throughout the appeals process, Petitioner and the  
9 State-Assessed Properties Division (SAPD or Respondent) each submitted briefing, evidence, and  
10 argument to support their positions on the three issues raised in this petition.

11  
12 **Legal Issue 1: Whether superadequacy in Petitioner's fiber network exists that requires an**  
13 **additional functional obsolescence adjustment.**

14 **Findings of Fact and Related Contentions**

15 Petitioner obtained an appraisal from Kroll, LLC (Kroll Appraisal) that it contends identified  
16 significant underutilization in its fiber network. Using a weighted average, Kroll concluded Petitioner's  
17 available network contains 92.0 strands but only 48.6 strands is needed for operations (52.82 percent).  
18 Based on the Kroll Appraisal, Petitioner contends that a \$87,420,509 deduction should be applied to  
19 the 2024 Board-Adopted Unitary Value resulting from superadequacy in its fiber network.

20 Respondent contends that Petitioner did not establish that the network's excess capacity is in  
21 excess of market standards versus that which is normally built into the property to handle peak  
22 demands, growth, planned redundancy, or legal requirements; nor did Petitioner establish what is the  
23 market standard. Respondent further contends that Petitioner failed to demonstrate the property is  
24 scalable and thus attainable in the utilized increment. As for any superadequate property, Respondent  
25 also asserts such property is not necessarily valueless and that Petitioner did not provide any salvage or  
26 residual value to capture the alleged excess capacity.

27 Respondent noted that it used actual network information in determining the value of  
28 Petitioner's property and not a weighted average of network strands as used in the Kroll Appraisal.

1 Respondent contends that using a weighted average is not reliable as it does not accurately reflect the  
2 percentage of aerial fiber versus buried fiber in Petitioner’s network; nor does it address the amount of  
3 underutilized aerial and buried fiber. The Kroll Appraisal stated Petitioner’s network cables vary from  
4 a minimum of 2 strands to a maximum of 864 strands but that a replacement network could be built  
5 using a 72-strand cable. Respondent further contends that Petitioner provided no explanation or  
6 support to illustrate the number of strands being utilized and how a 72-strand replacement network  
7 could support capacity demands and growth for its cables currently larger than 72-strands. Because of  
8 these concerns, Respondent contends it is unable to verify the appropriateness of the assumptions  
9 within the study.

10 Next, Respondent states that Petitioner did not detail its outside plant costs to show aerial fiber,  
11 buried fiber, and poles; nor did it distinguish costs for cable above and below 72 strands. Respondent  
12 points out that a superadequacy calculation should only be applied to cables above 72-strands, yet the  
13 Kroll appraisal applied the superadequacy percentage to the entire outside plant account.

14 Respondent contends that Petitioner’s superadequacy calculation is not a methodology  
15 supported by the *Guidelines for Substantiating Additional Obsolescence for State-Assessed*  
16 *Telecommunications Properties*.<sup>2</sup> In particular, Petitioner applied a linear cost relationship instead of a  
17 scaling factor for the relationship between capacity and cost. Additionally, Petitioner used cost  
18 information from a construction cost estimating database instead of actual costs incurred.

19 At the Appeals Conference on October 18, 2024, the parties generally incorporated by  
20 reference and renewed their contentions as previously captured in the parties’ briefings. On October  
21 31, 2024, Petitioner provided further detail and data for its functional obsolescence adjustment  
22 calculation, including figures on network capacity and utilization as well as Petitioner’s inability to  
23 cure superadequacy. On November 5, 2024, Respondent confirmed that such details did not  
24 substantiate the need for further adjustment.

### **Applicable Law and Appraisal Principles**

#### **Burden of Proof**

27 Assessing officers are presumed to have properly performed their duties. (Evid. Code, § 664.)  
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<sup>2</sup> Letter to Assessors 2008/068 (December 5, 2008). [Obsolescence for Equipment of State-Assessed Telecommunication Companies](#).

1 Therefore, Petitioner has the burden of showing that the assessment is incorrect or illegal. (*ITT World*  
2 *Communications v. Santa Clara* (1980) 101 Cal.App.3d 246; see also Cal. Code Regs., tit. 18, § 5541,  
3 subd. (a).)

#### 4 **Value Standard**

5 Section 1 of article XIII of the California Constitution states that all property must be valued at  
6 fair market value. Property Tax Rule 2, subdivision (a), states that “in addition to the meaning  
7 ascribed to them in the Revenue and Taxation Code, the words “full value”, “full cash value”, “cash  
8 value”, “actual value” and “fair market value” mean the price at which a property, if exposed for sale  
9 in the open market with a reasonable time for the seller to find a purchaser, would transfer for cash or  
10 its equivalent under prevailing market conditions between parties who have knowledge of the uses to  
11 which the property may be put, both seeking to maximize their gains and neither being in a position to  
12 take advantage of the exigencies of the other.”

#### 13 **Depreciation and the Cost Approach**

14 In general, the cost approach recognizes three types of depreciation: physical deterioration,  
15 functional obsolescence, and external, or economic, obsolescence, through the application of the  
16 Board’s replacement cost new trend factors and “percent” good factors. Obsolescence may occur when  
17 property is outmoded (functional obsolescence) or when some event has substantially diminished the  
18 future earning power of the property (economic obsolescence). (See Assessors’ Handbook section 501,  
19 *Basic Appraisal* (January 2002), pp. 80-83.) Economic obsolescence is the diminished utility of a  
20 property due to adverse factors external to the property being appraised and is incurable by the  
21 property owner. (*Id.* at p. 82.) The existence of any additional or extraordinary obsolescence must be  
22 supported with verifiable documentation and evidence, consistent with Board Guidelines, and  
23 Petitioner has the burden of establishing the existence of any additional or extraordinary obsolescence.  
24 (See Property Tax Rule<sup>3</sup> 6, subds. (d) & (e); Cal. Bd. of Equalization, Assessors’ Handbook section  
25 502, *Advanced Appraisal* (Reprinted January 2015) (AH 502), pp. 20-21; UVM, p. 30; and Cal. Bd. of  
26 Equalization, *Guidelines for Substantiating Additional Obsolescence*, at p. 1.)

27 Letter to Assessors 2008/068 (December 5, 2008), *Guidelines for Substantiating Additional*  
28 *Obsolescence for State-Assessed Telecommunications Properties* provides guidance for quantifying

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<sup>3</sup> All references to “Property Tax Rule” or “Rule(s)” are to sections of title 18 of the California Code of Regulations.

1 superadequacy, stating in part that:

2 “Property suffers from superadequacy when it exceeds market standards. In order to  
3 substantiate superadequacy, the study must demonstrate that the purported excess capacity is in  
4 excess of market standards and not spare capacity the market typically builds into the property  
5 to handle peak demands, growth, planned redundancy, or that required by law. For example,  
6 local exchanges typically design and build their systems to handle the high volume of calls on  
7 holidays or emergencies, and wireless providers build their networks to limit the number of  
8 dropped calls. To substantiate superadequacy, the study should demonstrate that the property in  
9 question exceeds the market standard as evidenced by other participants' actions. Additionally,  
10 in order to claim superadequacy, the property must be scalable in the sense that the property  
11 should be attainable in the market at that increment...Furthermore, the superadequate property  
12 may not always be valueless. Property deemed superadequate may still have value as excess  
13 equipment, salvage value, or some other residual value that must be included in the appraisal.”

### 14 Analysis and Disposition

15 Respondent is presumed to have correctly determined the value of the property at issue, and  
16 Petitioner bears the burden of proving otherwise. Here, Petitioner contends that its fiber network  
17 contains excess capacity based on actual data and could be replaced using a lower strand-count cable.  
18 Petitioner provided revised inutility studies, in addition to its original study, that contained varying  
19 formulas to measure the difference in installation costs per unit between its existing fiber and the  
20 utilization-adjusted fiber. Petitioner contends that each of the calculations supports its request for a  
21 \$87,420,509 superadequacy adjustment. However, we note, as Respondent points out, the Kroll  
22 Appraisal, as well as Petitioner’s revised studies, configure a replacement network based on utilization  
23 averages, rather than market standard, and does not factor in spare capacity for peak demands, growth,  
24 and unforeseen events. A replacement network would not be built without factoring in varying demand  
25 and growth. The analysis, data, and methodologies provided by Petitioner did not give sufficient detail  
26 on its existing network to identify actual utilization or any superadequacy based thereon; nor did it  
27 provide sufficient evidence demonstrating the market standard for building in excess capacity to  
28 handle growth, peak demand, and unforeseen events. Petitioner also did not comply with Board  
Guidelines for determining obsolescence, including not applying scaling factors to its inutility  
calculation and not valuing the superadequate property. Thus, Petitioner has cited no legal or appraisal  
authority, or provided any arguments or evidence that substantiate the necessity of a functional  
obsolescence adjustment to its unitary property value. Accordingly, we find that Petitioner has not met

1 its burden of proving Respondent erred by not providing an additional functional obsolescence  
2 adjustment in Petitioner's 2024 Board-adopted unitary value.

3  
4 **Legal Issue 2: Whether Petitioner has shown there is additional, uncaptured economic**  
5 **obsolescence from decreased revenues attributable to Petitioner's network assets.**

6 **Findings of Fact and Related Contentions**

7 Petitioner contends that its network solely exists due to state-funded grants to serve areas that  
8 the California Public Utilities Commission (CPUC) deemed uneconomic to serve. The Kroll Appraisal  
9 asserts there was 47 percent economic obsolescence, by calculating the difference between forecasted  
10 revenues provided in the CPUC grant applications and the actual revenues achieved by Petitioner.

11 Petitioner also submitted information on grant and non-grant projects while also providing detail on its  
12 revenue shortfall and anticipated future cashflows for calculating economic obsolescence.

13 Respondent contends that Petitioner's 2024 Board-adopted unitary value was based on a 100  
14 percent reliance on ReplCLD, which does not consider an assessee's revenues. The income approach  
15 would consider the revenues of Petitioner, but ReplCLD calculates the replacement cost new for  
16 Petitioner's property and then adjusts for depreciation.

17 Respondent further contends there are other potential factors besides Petitioner's network  
18 assets that could have caused Petitioner's revenue shortfall, but Respondent is unable to determine the  
19 reasonableness of Petitioner's revenue shortfalls and forecasts related to the network assets without  
20 sufficient financial information. Additionally, Petitioner has also not updated revenue forecasts from  
21 lien date 2023 to lien date 2024, which makes the economic obsolescence percentage provided by  
22 Petitioner unreliable in Respondent's estimation.

23 At the Appeals Conference on October 18, 2024, the parties generally incorporated by  
24 reference and renewed their contentions as previously captured in the parties' briefings. On October  
25 31, 2024, Petitioner submitted responses to additional questions raised by Respondent at the Appeals  
26 Conference, providing further detail and data in support of its economic obsolescence adjustment  
27 calculation. Such details included information on revenue forecasts and grant and non-grant projects.  
28 Petitioner further revised its calculation to adjust the economic obsolescence from 47 percent to 42

1 percent. Respondent contends that Petitioner's additional responses and information did not provide  
2 sufficient verifiable support for the revenue shortfall calculation by not incorporating revenue forecasts  
3 that were submitted to the CPUC in its analysis. Further, Respondent contends the revenue shortfall  
4 projection submitted by Petitioner is inconsistent with the capital expenditures for the network.

### 5 Applicable Law and Appraisal Principles

#### 6 Burden of Proof

7 Assessing officers are presumed to have properly performed their duties. (Evid. Code, § 664.)  
8 Therefore, petitioner has the burden of showing that the assessment is incorrect or illegal. (*ITT World*  
9 *Communications v. Santa Clara* (1980) 101 Cal.App.3d 246; see also Cal. Code Regs., tit. 18, § 5541,  
10 subd. (a).)

#### 11 Value Standard

12 See Legal Issue 1, Applicable Law and Appraisal Principles, p. 4.

#### 13 Depreciation and the Cost Approach

14 See Legal Issue 1, Applicable Law and Appraisal Principles, pp. 4-5.

### 15 Analysis and Disposition

16 Respondent is presumed to have correctly determined the value of the property at issue, and  
17 Petitioner bears the burden of proving otherwise. Here, Petitioner contends there is additional,  
18 uncaptured economic obsolescence and has calculated it is 42 percent, based on the difference between  
19 forecasted revenues provided in the CPUC grant applications and the actual revenues achieved by  
20 Petitioner. However, as Respondent points out, Petitioner's submitted calculation is not reliable,  
21 particularly since it did not include the original revenue forecasts for certain projects that were  
22 submitted to CPUC, and that there are various other potential external and unknown factors that may  
23 have caused the shortfall. Additionally, Petitioner's submitted revenue forecasts do not appear to be  
24 updated or reliable. Further, Petitioner's requested revenue shortfall calculation is inconsistent with  
25 Petitioner's capital expenditures for its network. Thus, Petitioner has cited no legal or appraisal  
26 authority, or provided any arguments or evidence that would substantiate the necessity of an  
27 obsolescence adjustment to its unitary property value or otherwise reliably show the requested income  
28 shortfall adjustment of 42 percent is necessary. Accordingly, we find that Petitioner has not met its  
burden of proving Respondent erred by not providing an additional economic obsolescence adjustment

1 in Petitioner's 2024 Board-adopted unitary value.

2  
3 **Legal Issue 3: Whether Respondent must account for Petitioner's future costs for removal of**  
4 **poles and aerial fiber.**

5 **Findings of Fact and Related Contentions**

6 Petitioner contends that the Kroll Appraisal concluded a present value of removal costs to be  
7 \$8,418,551. This value was calculated based on a retirement cost of \$3,126 per pole and \$1.66 per foot  
8 of aerial fiber. According to the Kroll Appraisal, the poles have 17.3 years of useful life remaining  
9 while the aerial fiber has 17 years of useful life remaining. A capitalization rate of 13.42 percent was  
10 used by Kroll to discount the future inflation-adjusted retirement costs for a present value. According  
11 to Petitioner, SAPD has stated that a removal cost adjustment is no longer allowed because poles are  
12 no longer temporary, but telecommunication poles must be removed at the end of their useful life for  
13 safety, maintenance, and eyesore reasons. Therefore, Petitioner contends the poles will be removed at  
14 the end of their 20-year useful life.

15 Petitioner subsequently provided actual pole counts, which was 7,934 as of lien date 2024,  
16 which led to Petitioner revising its removal cost estimate request to \$6,873,308.

17 Respondent contends that the ReplCLD indicator is based on actual historical costs, and the  
18 future removal of poles and aerial fiber should not be factored into the original cost of the property as  
19 it does not relate to a cost typically incurred to bring replacement property to a finished state.  
20 Therefore, according to Respondent, it is inappropriate to adjust Petitioner's unitary value for future  
21 removal costs that have yet to be incurred.

22 Respondent further contends that the Kroll Appraisal does not provide relevant support or  
23 justification for its estimate of a 30 percent failure rate for poles when the historic failure rate has been  
24 20 percent.

25 Finally, Respondent contends that the Kroll Appraisal's removal cost calculation fails to  
26 provide relevant support for the estimation of the removal posts per pole and per foot of aerial fiber,  
27 the applied inflation rate for the removal costs, the weighted average cost of capital rate (WACC) used  
28 to derive the present value of removal costs, and how WACC is applied to the estimated future



1 removal costs in order to arrive at the present value of removal costs.

2 At the Appeals Conference on October 18, 2024, the parties generally incorporated by  
3 reference and renewed their contentions as previously captured in the parties' briefings. After the  
4 Appeals Conference, Petitioner provided clarification on the data and information to support its  
5 argument for removal costs. Respondent replied by restating that future removal costs should not be  
6 included in the ReplCLD value indicator. Respondent further asserted that Petitioner did not provide  
7 sufficient documentation regarding: (1) leased poles and conduit; (2) retirement schedules for poles  
8 and aerial fiber; (3) present value factors used in its calculation; and (4) retirement of poles and aerial  
9 fiber if leases are not renewed.

### 10 Applicable Law and Appraisal Principles

#### 11 Burden of Proof

12 Assessing officers are presumed to have properly performed their duties. (Evid. Code, § 664.)  
13 Therefore, petitioner has the burden of showing that the assessment is incorrect or illegal. (*ITT World*  
14 *Communications v. Santa Clara* (1980) 101 Cal.App.3d 246; see also Cal. Code Regs., tit. 18, § 5541,  
15 subd. (a).)

#### 16 Value Standard

17 See Issue 1, Applicable Law, p. 4.

#### 18 Replacement Cost Approach

19 Replacement cost is the cost to replace an existing property with a property of equivalent  
20 utility as of a particular date. (See Assessors' Handbook section 501, *Basic Appraisal* (January 2002),  
21 p. 77.) The replacement cost may be estimated by applying current prices to the labor and material  
22 components of a substitute property capable of yielding the same services and amenities and then  
23 reduced for any depreciation or obsolescence. (Property Tax Rule 6, subds. (d) & (e).)

#### 24 Analysis and Disposition

25 Respondent is presumed to have correctly determined the value of the property at issue, and  
26 Petitioner bears the burden of proving otherwise. Here, Petitioner contends that telecommunication  
27 poles must be removed at the end of their 20-year useful life for safety, maintenance, and eyesore  
28 reasons. As such, Petitioner contends there should be a \$6,873,308 adjustment for the future removal

1 costs, based on its present value calculation. However, as Respondent points out, the ReplCLD value  
2 indicator is based on actual historical cost information, while the present costs to remove the poles are  
3 based on estimates of future costs. As such, we concur with Respondent that such an adjustment is not  
4 supported by Property Tax Rule 6, as removal costs do not factor into the original cost of the property  
5 or costs incurred to bring replacement property to a finished state Thus, Petitioner has cited no legal or  
6 appraisal authority, or provided any arguments or evidence that would substantiate the necessity of the  
7 requested adjustment. Accordingly, the Board finds that Petitioner has not met its burden of proving  
8 Respondent erred by not including an additional adjustment for estimates of future, not yet incurred  
9 removal costs in Petitioner’s 2024 Board-adopted unitary value.

10  
11 **DECISION**

12 Accordingly, the petition for reassessment is denied, and the 2024 Board-adopted unitary value  
13 of \$320,800,000 is affirmed. \*

14  
15 Sally J. Lieber \_\_\_\_\_, Chair

16 Ted Gaines \_\_\_\_\_, Vice-Chair

17 Antonio Vazquez \_\_\_\_\_, Member

18 Mike Schaefer \_\_\_\_\_, Member

19 Malia M. Cohen \_\_\_\_\_, Controller

20  
21 \* The decision was rendered in Sacramento, California on November 19, 2024. This summary decision  
22 document was approved on February 19, 2025, in Sacramento, California.