

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
Regarding Broadband Infrastructure
Deployment and to Support Service
Providers in the State of California.

Rulemaking 20-09-001

ASSIGNED ADMINISTRATIVE LAW JUDGE'S RULING

1. Background

The Assigned Commissioner's First Amended Scoping Memo and Ruling (Amended Scoping Memo), issued April 20, 2021, includes in the scope of Phase II-B of this proceeding an investigation into whether Internet service providers (ISPs) are refusing to serve certain communities or neighborhoods within their service or franchise areas, a practice commonly called redlining. Redlining may exist within communities and across communities, as a result of systemic issues in the communications marketplace that disadvantage specific communities. To begin this investigation, this ruling requests comments on several studies on the issue, in addition to allowing parties to offer their own data and analysis.

This ruling seeks comments on the following three studies by the following entities:

- The Greenlining Institute;
- The Communications Workers of America (CWA) and the National Digital Inclusion Alliance (NDIA); and
- The USC Annenberg Research Network for International Communication (ARNIC) and the USC Price Spatial Analysis Lab (SLAB) nation.

Additionally, this ruling requests comments on additional analysis of broadband deployment within California's communities.

2. Studies Submitted for Comment

Parties are asked to comment on the report *On the Wrong Side of the Digital Divide*, released by the Greenlining Institute in June 2020.¹ This report highlights the challenges residents in Oakland and Fresno, California face when they lack Internet access, including some residents taking on additional debt to pay for Internet service, while others cannot afford it at all. Inconsistent access to Internet service, as well as poor or selective marketing, disrupts day to day activities, forcing many to go to great lengths to get connected. Lack of access is a barrier to academic success. The Greenlining Institute proposes recommendations to achieve broadband for all, including California modernizing its Internet connectivity through ultra-fast "fiber" Internet infrastructure to all residents in certain areas and to offer Internet service plans of at least 50 Mbps speeds for \$10 per month to Californians earning 200 percent of the federal poverty line.

Parties are also asked to comment on *AT&T's Digital Redlining: Leaving Communities Behind for Profit*, released in October 2020 by the Communications Workers of America (CWA) and the National Digital Inclusion Alliance (NDIA).² This report analyzes data from three sources: AT&T's 21-state network, an August 2020 survey of CWA members, and reports by local advocates in AT&T's service area. Key findings in this report include:

¹ Available as of this writing at: <https://greenlining.org/publications/online-resources/2020/on-the-wrong-side-of-the-digital-divide/>

² Available as of this writing at: https://www.digitalinclusion.org/wp-content/uploads/dlm_uploads/2020/10/ATTs-Digital-Redlining-Leaving-Communities-Behind-for-Profit.pdf

- AT&T has made fiber-to-the-home available to fewer than a third of the households in its footprint;
- Across rural counties in AT&T's footprint, five percent of households have access to fiber;
- For 28 percent of the households in its network footprint, AT&T's Internet service does not meet the 25/3 Mbps benchmark;
- AT&T prioritizes network upgrades to wealthier areas, leaving lower income communities with outdated technologies, as households with fiber available have a median income roughly 34 percent higher than those with DSL only; and
- AT&T is not installing splitting equipment to enable home connections even where a fiber backbone exists.

Parties also are asked to comment on *Who gets access to Fast Broadband? Evidence from Los Angeles County 2014-17*, released in October 2019 by USC Annenberg Research Network for International Communication (ARNIC) and the USC Price Spatial Analysis Lab (SLAB).³ This report finds that ISPs are “cherry-picking” areas for upgrades to fast broadband services in Los Angeles County and that broadband infrastructure upgrades are skewed against less affluent areas and communities of color, especially in low-income and predominantly Black communities. The report compares broadband Internet service competition and fiber availability in South Los Angeles versus Glendale, and alleges that broadband investments in Los Angeles County during 2014-2017 did not adhere to non-discriminatory federal and state laws, including the Digital Infrastructure and Video Competition Act.

³ Available as of this writing at: <https://arnicusc.org/publications/who-gets-access-to-fast-broadband-evidence-from-los-angeles-county-2014-17/>

3. City and Census Designated Place Analysis

In addition to the three studies provided above, parties are asked to comment on the analysis shown in Table 1.

This table provides summary information on the percent of each city and census designated place (CDP)⁴ in the state with a fixed broadband Internet service provider (ISP) claiming to offer service at 100 Mbps per second or greater. The broadband deployment data utilized is the end of year 2019 data collected by the Commission’s Communications Division. The table is broken into various brackets based by the served status of each city or CDP. This table also provides the weighted average median household income for each of the cities and CDPs based on the figures provided in the 2015-2019 American Community Survey 5-Year Estimates. This table does not include households that are not incorporated by a city, nor identified by the U.S. Census Bureau as being a place.

An Excel sheet providing the detailed data underlying this table is available on the [Commission’s website](#).

Table 1. Comparison of Unserved Communities and their Relative Income

Cities and Census Designated Places (CDPs) Unserved at 100 Mbps Download			
Cities and CDPs that are...	Number of Cities and CDPs	Number of Unserved Households	Weighted Average Median Household Income
<i>75% or More Unserved</i>	360	64,407	\$53,221
<i>Between 50%-75% Unserved</i>	45	13,121	\$53,365
<i>Between 25%-50% Unserved</i>	51	9,816	\$59,544
<i>25% or Less Unserved</i>	1,055	244,225	\$78,520

⁴ As defined by the U.S. Census Bureau, a Census Designated Place is a “Statistical counterpart of incorporated places, delineated to provide data for settled concentrations of population identifiable by name but not legally incorporated under the laws of the state in which they are located. CDPs are delineated cooperatively by state and local officials and the Census Bureau, following Census Bureau guidelines.”

<i>Less Than 10% Unserved</i>	949	217,745	\$79,927
<i>Less Than 5% Unserved</i>	822	156,091	\$81,012
<i>Less Than 1% Unserved</i>	470	28,735	\$84,452

4. Comments Requested

Parties are asked to comment on the following questions:

1. Are the inputs and assumptions of the studies discussed above accurate? How could one improve these studies?
2. Do the findings of these studies provide evidence of a systemic problem in California?
3. Do these studies indicate discrimination based on race, socioeconomic status or otherwise, and, if yes, what are the societal implications?
4. If the Commission were to undertake an investigation into whether ISPs are not serving certain communities or neighborhoods within their service or franchise areas, a practice generally referred to as redlining, how should the Commission conduct that investigation? What data should the Commission rely on for its investigation?
5. Historically, redlining has meant that some neighborhoods, generally with affluent, white residents, have access to a particular service while poorer residents do not. How should the Commission define redlining? In the context of broadband Internet service, should Internet speeds offered to residents be taken into consideration?
6. Does the table in Section 3 of this ruling indicate redlining or some other form of systemic issue? It appears to indicate that poorer communities are more likely to be unserved, and wealthier communities are more likely to be served. Is this analysis accurate? Please explain why it is or is not accurate.
7. Are there other studies or analysis that parties wish to submit for the record in this proceeding?

8. The Commission's [Environmental and Social Justice Action Plan](#) has as a stated goal (Goal 3) to increase access to high quality communications services for Environmental Justice and Social Justice communities. If it is found that ISPs have engaged in redlining practices, what actions should this Commission take to ensure high quality Internet service becomes available to previously redlined communities?

Parties are asked to submit comments by July 2, 2021. The deadline for reply comments is July 19, 2021.

5. Evidentiary Hearing

The Assigned Commissioner's First Amended Scoping Memo confirms that evidentiary hearing is not needed, but grants parties the opportunity to file motions for each segment of Phase II. In the case of the subject of this ruling, the First Amended Scoping Memo grants parties the opportunity to file motions requesting evidentiary hearing for up to 15 days after issuance of this ruling.

IT IS RULED that:

1. The comment period to respond to this ruling is set forth above.
2. Evidentiary hearing is not needed. Parties have fifteen days after issuance of this ruling to file motions requesting evidentiary hearing.

Dated May 28, 2021, at San Francisco, California.

/s/ THOMAS J. GLEGOLA

Thomas J. Glegola
Administrative Law Judge