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**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.

R. 20-09-001
(Filed September 10, 2020)

OPENING COMMENTS OF

**CALAVERAS TELEPHONE COMPANY (U 1004 C)
CAL-ORE TELEPHONE CO. (U 1006 C)
DUCOR TELEPHONE COMPANY (U 1007 C)
FORESTHILL TELEPHONE CO. (U 1009 C)
HAPPY VALLEY TELEPHONE COMPANY (U 1010 C)
HORNITOS TELEPHONE COMPANY (U 1011 C)
KERMAN TELEPHONE CO. (U 1012 C)
PINNACLES TELEPHONE CO. (U 1013 C)
THE PONDEROSA TELEPHONE CO. (U 1014 C)
SIERRA TELEPHONE COMPANY, INC. (U 1016 C)
THE SISKIYOU TELEPHONE COMPANY (U 1017 C)
VOLCANO TELEPHONE COMPANY (U 1019 C) AND
WINTERHAVEN TELEPHONE COMPANY
("SMALL LECS")**

ON AUGUST 6, 2021 ASSIGNED ADMINISTRATIVE LAW JUDGE'S RULING

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I. INTRODUCTION

Pursuant to the Assigned Commissioner’s Ruling, issued on August 6, 2021 (“ACR”), Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), and Winterhaven Telephone Company (U 1021 C) (the “Small LECs”) hereby submit these opening comments on the issues specified in the ACR related to the state-owned middle-mile project initiated by SB 156. In a ruling issued on August 20, 2021, by the assigned Administrative Law Judge, the deadline for filing opening comments in response to the ACR was extended to September 3, 2021.

SB 156, which was chaptered on July 20, 2021, directs the newly-created Office of Broadband and Digital Literacy to “. . . oversee the acquisition and management of contracts for the development and construction of a statewide open-access middle-mile broadband network . . .” *See* Cal. Gov. Code § 11549.52. In that same legislation, the California Public Utilities Commission (“Commission”) was tasked with preparing a report identifying state highway rights-of-way where installation of open-access middle-mile broadband infrastructure should be prioritized. *See* Cal. Gov. Code § 11549.54(a), (e). In furtherance of that directive, the ACR published a map reflecting locations and pathways for a proposed middle-mile network and identified a series of topics for comments by interested parties.

Before addressing the topics raised in the ACR, the Small LECs emphasize two principles that should inform recommendation the Commission makes regarding the construction of a middle-mile network. First, notwithstanding the generous allocation of funds to construction of a middle-mile network made pursuant to SB 156, the primary impediment to access to high-speed broadband remains the last mile, which continues to require significant investment to reach the more rural areas of California. SB 156 should not be viewed as a replacement for, but only as a supplement to, existing Commission-administered programs directed to address the last-mile problem, such as the California Advanced Services Fund (“CASF”) and the California High Cost Fund-A (“CHCF-A”). Second, although the SB 156 funds are significant, they are not likely sufficient to construct a wholly-new, *statewide*, middle-

mile network, nor would a ubiquitous state-owned network be appropriate in all areas. For that reason, the Commission should plan a more focused construction of middle-mile network segments where existing middle-mile infrastructure does not exist. The state-owned middle-mile should fill in gaps, where they exist, in middle-mile deployment; it should not be a vehicle for overbuilding existing middle-mile infrastructure.

II. RESPONSES TO TOPICS FOR COMMENT RAISED IN THE ACR.

A. Identifying Existing Middle-Mile Infrastructure.

The Small LECs own only limited infrastructure that would be considered “middle-mile” facilities, so providing comprehensive information on the location of existing “middle-mile” facilities is a challenge. Upon review of the map linked in the ACR, however, the Small LECs are concerned that the Commission intends to recommend construction of middle-mile network that will substantially overbuild existing infrastructure. It is difficult to imagine that the SB 156 funding would produce meaningful benefits in the San Francisco, Los Angeles or San Jose metropolitan areas, as the map clearly indicates would occur. Likewise, the Small LECs are aware from their presence in and around the California Central Valley that there is significant middle-mile capacity available in that area on a reasonably-accessible, commercial basis.

To assist parties in assessing the data provided, it would be helpful for the Commission to publish an explanation for how it arrived at the routes reflected in its map. On its face, proposed middle-mile pathways contain certain peculiarities, especially if the goal is to reach areas that may not already have middle-mile access. For example, the map depicts extensive middle-mile infrastructure in the flatter areas of the San Joaquin Valley and there is a middle-mile line along Interstate 80 to Lake Tahoe. However, many of the other highways that pass through the Sierra Nevada would not be touched by the middle-mile network, such as Highways 4, 49, 50, 108. There are also several “spurs” reflected in the proposed deployment, where the network meets a dead end, without an explanation of whether there is an interconnection point with another provider at that location. There may be a plausible explanation for the recommended routes, but such explanation does not appear on the face of the map, and it would be helpful to understand the reasoning behind this framework to provide more thoughtful input.

B. Priority Areas.

As noted above, the priority for new middle-mile infrastructure should be those areas that do not currently have access to such facilities. In addition, the Small LECs recommend that the

Commission adhere to SB 156 and prioritize areas that do not currently have access to 25 Mbps download. *See* Gov. Code 11549.54(d). By focusing on households without access to 100 Mbps, as the map suggests, the Commission’s proposed construction would misallocate resources to urban and suburban areas that likely have quite a sufficient amount of existing middle-mile infrastructure. Contrary to the suggestion in the ACR, it is not reasonable to assume that counties with a “disproportionately high number of unserved households”—defined as 100 Mbps download—“are areas with insufficient middle-mile network access.” *ACR* at 5. This is an unreasonably high standard for identifying a location as “unserved,” and even if it were reasonable, the last mile connectivity is the more likely limitation on network capabilities in these areas. Instead of avoiding overbuilding existing middle-mile networks and focusing on true areas of need, the prioritization of households without access to 100 Mbps does just the opposite, *i.e.*, it favors overbuilding existing middle-mile networks in urban areas, which is unlikely to actually increase individual household access to high-speed broadband.

C. Assessing the Affordability of Middle-Mile Infrastructure.

The Small LECs have limited information about this topic and do not offer comment at this time. The Small LECs reserve the right to supply additional information in reply comments.

D. Leasing Existing Infrastructure.

As discussed previously, the Small LECs recommend that the State minimize the geographic areas where it overbuilds existing middle-mile infrastructure. Overbuilding is not an efficient use of resources. With that in mind, there should be little need to lease existing infrastructure for the State-owned, middle-mile network. However, in the rare instances where the State determines existing middle-mile infrastructure is not open and that it is necessary to deploy the State-owned network in that geographic area, the first priority should be to secure long-term access to such existing fiber, whether in the form of a lease, license or Indefeasible Right of Use. Paying for an IRU from an existing provider may be especially attractive if there is a “gap” in the middle-mile plan that can be more efficiently addressed by relying on existing infrastructure. There is likely a vast difference in cost between constructing new facilities and accessing existing fiber, so relying on existing fiber would allow the State to add much more coverage to its new network.

E. Interconnection.

As with all middle-mile facilities, interconnection is not technically feasible at all points. However, the state-owned middle-mile should provide for interconnection at all feasible points and provide connectivity at reasonable levels without burdening other users of the network or interfering with signaling necessary for the middle-mile facilities to properly function.

F. Network Route Capacity.

The Small LECs defer to other parties who may have more detailed information on this topic. The Small LECs do recommend, however, that the State size any facilities to be constructed in a way that will accommodate not just current levels of traffic, but will allow for increases in the volume of traffic beyond that which exists today. Customer demand and regulatory standards for broadband access are advancing rapidly, and the middle-mile infrastructure should anticipate this trend and plan for a long-term future using scalable infrastructure that will allow for natural flexibility and growth to meet future needs. While 100 Mbps is not a reasonable definition of “unserved” in the current environment, the State-owned middle-mile should be constructed to achieve at least that level of capability where it deployed.

III. CONCLUSION.

Although the focus of SB 156 is the middle-mile, the Commission should keep in mind that the significant hurdle of the cost of last-mile facilities will continue to be the primary impediment to fulfilling that goal. To that end, the Commission should remain committed to its programs supporting last-mile facilities, including the CHCF-A. In addition, the Commission should maximize the benefit of the resources allocated by SB 156 by minimizing the instances where it recommends overbuilding existing middle-mile infrastructure.

Respectfully submitted on September 3, 2021, at Oakland, California.

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