

BEFORE THE PUBLIC UTILITIES COMMISSION OF  
THE STATE OF CALIFORNIA



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

Rulemaking 20-09-001  
(Filed April 20, 2021)

**REPLY COMMENTS OF THE CENTER FOR ACCESSIBLE TECHNOLOGY ON THE  
IOUS' PILOT PROPOSALS FOR DEPLOYING BROADBAND INTERNET SERVICE**

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## **I. INTRODUCTION**

In accordance with the provisions of the Assigned Commissioner’s Amended Scoping Memo and Ruling (Amended Scoping Memo) issued on April 20, 2021, and the modifications to the schedule set out in an email ruling issued on July 13, 2021, the Center for Accessible Technology (CforAT) provides these reply comments on the IOU Pilot Proposals submitted on July 30, 2021.

### **A. Overview on the Role of Pilot Projects**

CforAT noted in opening comments that the Pilot Track of this proceeding (Phase II-A) was established in an effort to determine “what role the IOUs can play in deploying broadband Internet access services to communities lacking access” to high speed service, and it specified a number of issues where pilot projects might serve to provide information and data that would be useful in considering the broader issue.<sup>1</sup> CforAT further noted that the IOU responses were quite limited, failing to address a number of the questions at all, and providing limited information even on the proposals provided.<sup>2</sup>

The Commission has previously defined the purpose of pilot projects as intended to:

“test a new and innovative concept, partnership, or program design that is intended to address a specific area of concern or gap in existing programs or to advance a Strategic Plan goal or strategy. The project logic and design should address the concern or gap and contain metrics to measure the success or failure of the pilot project. The pilots should be limited in scope and duration so that results are available in a specified time frame and limited in budget so that unsuccessful programs have a limited impact on the overall portfolio. All results of pilot projects must be shared widely with the other utilities and with the stakeholders in the sector impacted by the pilot. There should be a specific plan and timeframe to move all pilot programs into utility-wide and hopefully statewide use.”<sup>3</sup>

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<sup>1</sup> CforAT Opening Comments at p. 1 (citing Assigned Commissioner’s Amended Scoping Memo and Ruling, issued on April 20, 2021, at pp. 5-6).

<sup>2</sup> CforAT Opening Comments at pp. 1-2

<sup>3</sup> D.09-09-047, issued in A.08-07-021 et seq (addressing energy efficiency programs) at pp. 48-49.

The proposals put forward by the IOUs meet virtually none of these parameters. Even though the questions put forward in the Amended Scoping Memo sought input from the IOUs to develop pilots that would test the concept of IOU broadband deployment as a way to increase accessibility and affordability of high-speed service to all Californians, the comments provided by CforAT and a number of other parties highlighted that the responses did not provide much assistance in establishing a means of considering this issue more broadly.

For this reason, CforAT maintains our position that the pilot track of this proceeding is not proving to be an effective use of stakeholder resources at this time.<sup>4</sup> Even to the extent that the Commission may support the implementation of the SCE proposals as projects that will benefit a particular community or encourage the other IOUs to continue efforts to explore targeted deployment options, the path from the current set of proposals to a useful pilot program that would collect data and generate useful information for consideration of program expansion is unclear, and other options for broadband expansion are currently in development via increased state and federal resources. CforAT respectfully recommends that the Commission should turn its attention to consideration of how to best respond to these opportunities at this time. The IOUs would be welcome stakeholders in those efforts and may have valuable contributions going forward. However, to date, their engagement and apparent lack of interest has not generated a useful path forward for broad deployment efforts.

## **B. Responses to Party Comments**

### **1. The Commission Should Carefully Consider the Issues Involved in Complex Questions Implicated by the Pilot Proposals**

#### ***a. Providing CPCNs for IOUs***

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<sup>4</sup> See CforAT Opening Comments at pp. 5-6.

Various parties, including CETF and RCRC, strongly support broad adoption of CPCNs for IOUs. RCRC goes so far as to suggest that the Commission should consider ordering the energy IOUs into the local exchange market.<sup>5</sup> CETF recommends that the IOUs be encouraged to obtain CPCNs, and appears to suggest a uniform set of parameters based on the CPCN issued to SCE in 1992 for the Commission to adopt in conjunction with potential CPCN designations for other IOUs.<sup>6</sup>

Other parties also touch on options for encouraging more active participation by energy utilities in the provision of broadband, but provide greater recognition of important policy issues that would need to be addressed to allow substantially expanded activity of this nature. Cal Advocates suggests that any activity undertaken by IOUs to provide broadband, including pursuit of a CPCN, should be voluntary, and should ensure that shareholders are responsible for all costs.<sup>7</sup> TURN notes the importance of avoiding distraction among the IOUs from their vital focus on wildfire threat reduction and service reliability and also notes the important ratemaking issues that would come with the extension of IOU responsibilities into broadband.<sup>8</sup> CforAT notes that both Cal Advocates and TURN are actively involved in the Commission's regulatory efforts involving complex energy issues and costs (as is CforAT), and their recognition of the significance of these issues should be acknowledged.

CforAT continues to believe that there may be value in pursuing improved access to fiber installed by IOUs. At the same time, the complexities raised by such activity mean that the Commission cannot address the relevant policy concerns in a sweeping manner based on a

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<sup>5</sup> RCRC Opening Comments at pp. 2-3.

<sup>6</sup> CETF Opening Comments at pp. 2-3.

<sup>7</sup> Cal Advocates Opening Comments at pp. 2-3.

<sup>8</sup> TURN Opening Comments at p. 3.

limited set of comments in a Rulemaking proceeding that is not even focused on the energy IOUs. Rather, the important questions about an IOUs' ability to take on projects that do not relate to their core responsibilities and the ratemaking issues associated with such a new line of business can only be appropriately considered by the Commission via separate applications from any IOU that wishes to be considered for a CPCN, as has been done in the past. If an IOU files such an application, the Commission can then consider the specific circumstances and facts presented, and balance the various policy priorities that would be involved. The use of a separate Application proceeding would also prevent the Commission from turning its focus in this proceeding to issues surrounding CPCNs for energy IOUs and risking distraction from other mechanisms to support effective improvements to broadband deployment and access.

***b. Addressing Pole Attachments***

Most parties did not meaningfully address the Commission's questions regarding GO 95 and pole access. However, CETF recommends "amendments that will allow ISPs to bring broadband service to unserved areas on an expedited basis using IOU poles."<sup>9</sup> Notwithstanding this broad recommendation, CETF does not propose any specific amendments, nor does it grapple with issues of prioritization, cost, or community control over public rights of way. In contrast, SCE (which did not address GO 95 in conjunction with its proposals, but did file separate comments on the issue of pole access) raises concerns about the use of deadlines that might implicate safety concerns or involve issues outside of the utility's control such as permitting.<sup>10</sup>

CforAT understands that the Commission has an open rulemaking addressing questions of pole attachments and pole loading. Whether or not the issues raised by CETF and SCE are

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<sup>9</sup> CETF Opening Comments at p. 4.

<sup>10</sup> SCE Opening Comments at pp. 2-3.

being addressed in such a Rulemaking, the complexities of pole attachment issues are unlikely to be suitable for resolution as a side issue in this proceeding, and should be given full consideration elsewhere.

## **2. The Commission Should Disregard Carriers' Hostility to Any Expanded Deployment Efforts**

While a number of parties noted concerns with the IOU pilot proposals, two broadband providers, Charter and AT&T, provided comments that are narrowly self-serving and should be disregarded by the Commission. Charter's general insistence that the Commission should only focus on communities that are fully "unserved,"<sup>11</sup> rather than consider those that are underserved, fails to acknowledge the scope of broadband accessibility concerns in California. Charter's more targeted opposition to SCE's proposals appear to focus on the carrier's desire to avoid the introduction of a new competitor, particularly one that might provide open access, within its claimed territory.<sup>12</sup> The comments submitted by AT&T attempt to shift the Commission's focus from broad deployment of middle mile options to limited deployment, with priorities for those areas where AT&T deigns to offer new last-mile connectivity.<sup>13</sup>

Charter and AT&T's arguments are simply thinly disguised requests for the Commission to maintain the status quo and protect Charter and AT&T, rather than consumers. Regardless of the position the Commission takes on the specific proposals currently under consideration, it should not limit its efforts to improve the availability of broadband for Californians who currently lack options for true high-speed (minimum 100 Mbps) connectivity based on the narrow interests of existing providers. Doing so would only reinforce the inequitable access to

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<sup>11</sup> Charter Opening Comments at p. 1.

<sup>12</sup> See Charter Opening Comments at pp. 2-4.

<sup>13</sup> AT&T Opening Comments at pp. 1-3.

broadband that Charter, AT&T, and others have created.

**3. The Commission Should Consider Incorporating Useful Party Input into Ongoing Broadband Considerations Regardless of Whether Any “Pilots” Are Authorized**

Regardless of the position the Commission takes on the specific proposals currently under consideration, it should consider incorporating some of the useful input provided by parties in conjunction with ongoing efforts to broadly enhance the availability of affordable high-speed broadband to all Californians. In particular, CforAT notes the following useful party input:

- TURN sets out certain key principles for broadband projects conducted by IOUs which should be considered by the Commission in conjunction with any IOU projects (either pilots or stand-alone efforts). These include consideration of whether a project would divert from the IOU’s core responsibilities of delivering energy safely and reliably, whether the project is supported by the local community including anchor institutions, and whether the project leverages existing infrastructure and provides useful information for consideration of other future projects.<sup>14</sup> CforAT supports these principles.
- TURN also sets out the key principle that electric utility ratepayers must be held harmless for any broadband deployment costs.<sup>15</sup> This recommendation is echoed by other parties, including Cal Advocates<sup>16</sup> and CETF.<sup>17</sup> CforAT strongly agrees, and notes that cost shifts from electricity ratepayers for the deployment of

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<sup>14</sup> TURN Opening Comments at pp. 2-3.

<sup>15</sup> TURN Opening Comments at p. 3.

<sup>16</sup> Cal Advocates Opening Comments at pp. 2-3.

<sup>17</sup> CETF Opening Comments at p. 2.

communications infrastructure would be inappropriate.<sup>18</sup>

- Cal Advocates recommends that any IOU broadband project should be open access and should provide high speed connections.<sup>19</sup> CforAT agrees; to the extent that IOU broadband deployment projects are authorized (either as pilots or as stand-alone efforts to serve a particular community), it is appropriate for such authorization to include requirements that such projects will provide broad benefits into the future.
- Cal Advocates recommends that the Commission should ensure that existing broadband providers should not be permitted to abandon service based on authorization of any pilot projects.<sup>20</sup> CforAT agrees.
- In the context of rebuilding after disasters, RCRC asserts that “there is merit in standardizing planning and installation of fiber facilities and conduit to minimize costs and limit community disruptions during rebuilding efforts,” and recommends that the Commission “scrutinize pre-disaster planning as a whole, including procurement and staging of replacement fiber infrastructure so communities can be restored sooner and potentially with better download speeds than before.” CforAT believes that this proposal is consistent with efforts that the Commission has initiated in Phase 1 of this proceeding, and that these efforts should be continued. Pre-planning is particularly important to reduce appropriate concerns expressed by parties that service restoration following a disaster not be slowed down.

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<sup>18</sup> See Cal Advocates Opening Comments at p. 2, fn. 3.

<sup>19</sup> Cal Advocates Opening Comments at pp. 3-4.

<sup>20</sup> Cal Advocates Opening Comments at p. 5.



## II. CONCLUSION

CforAT appreciates the Commission’s exploration of whether IOU pilot projects can be used to assist policymakers in determining how California can best deploy broadband to unserved and underserved communities. Based on the information and proposals available at this time, however, CforAT maintains our recommendation that the Commission should move forward with options for “deploying broadband Internet access services to communities lacking access to download speeds of 100 megabytes per second,”<sup>21</sup> without relying on substantial participation by the IOUs. Upon further development of projects based on new state and/or federal funding, the Commission can return its focus to efforts to integrate work with the IOUs as an ongoing element of broadband availability.

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<sup>21</sup> Amended Scoping Memo at p. 5.