



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**FILED**

10/01/21  
04:59 PM

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

Rulemaking 20-09-001  
(Filed October 1, 2021)

**CALIFORNIA COMMUNITY FOUNDATION (CCF)  
COMMENTS ON ADMINISTRATIVE LAW JUDGE'S RULING ORDERING  
ADDITIONAL COMMENTS AS PART OF MIDDLE-MILE DATA COLLECTION**

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October 1, 2021

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**I. Introduction**

California Community Foundation (“CCF”) respectfully submits these comments in response to the Assigned Administrative Law Judge (ALJ) ruling issued September 9, 2021, ordering additional comments as part of the Commissions Middle-Mile Data Collection.

**II. The Staff Report should include Competition, Redlining, Affordability, and Areas of Greatest Need as Factors for Consideration**

An April 28, 2021, report from CalMatters begins with a now all-too familiar anecdote:

*About twice a week, the \$9.99 per month internet connection falters. It's often as Mario Ramirez finally wrangles his kids into their seats — the fourth-grader studies in the bedroom he shares with his 12 year-old sister, who studies in her parents' bedroom — in time for virtual class. The screens freeze — sometimes during online tests. At times the little one bursts into frustrated tears as they wait for their connection to resume, precious class time slipping away.<sup>1</sup>*

The Ramirez family lived in Oakland, an urban geography reportedly extensively served by the major private Internet Service Providers.<sup>2</sup> They were connected through a low-rate Comcast plan that, per a study provided to the reporters by Comcast and funded by a global cable company<sup>3</sup>, should have offered a 50/5 connection.

The report later shares the story of Evelyn Flores, a student from South East Los Angeles who was trying her best to attend Gonzalez Mendez High School in an urban area reportedly well-served by both AT&T and Charter<sup>4</sup>:

*In one sense, Flores was one of the lucky ones. Her family already had a \$14.99 per month home internet connection with Spectrum for low-income families. But it wasn't fast enough for Flores and her three sisters to do virtual school and work at the same time — especially when Flores' parents quarantined for three weeks in the family's one bedroom after both contracted COVID-19.*

*Flores and two of her sisters slept, studied and worked in the living room, competing for connectivity. In virtual classes, classmates told her that her voice warped like a robot when she spoke. She got in the habit of turning her video off to free up bandwidth. Upgrading to a faster internet plan was out of the picture: Her dad lost his supermarket job after his bout with the virus.*

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<sup>1</sup> The wires may be there, but the dollars aren't: Analysis shows why millions of California students lack broadband; <https://calmatters.org/projects/california-broadband-student-access>

<sup>2</sup> <https://public.tableau.com/app/profile/cpuc/viz/EOY2019BroadbandDeploymentAnalysisByHousehold/County>

<sup>3</sup> Expanded Testing of Video Conferencing Bandwidth Usage Over 50/5 Mbps Broadband Service; <https://www.cablelabs.com/expanded-testing-of-video-conferencing-bandwidth-usage-over-50-5-mbps-broadband-service>

<sup>4</sup> [https://public.tableau.com/shared/7GZYRW9N8?:display\\_count=n&origin=viz\\_share\\_link](https://public.tableau.com/shared/7GZYRW9N8?:display_count=n&origin=viz_share_link)

And finally, a third anecdote from the CalMatters report, this one from rural Central Valley:

*Stan Santos, a splicing technician with AT&T and a representative for the Communications Workers of America union, has tested hotspots issued by school districts in multiple small farmworker communities in Fresno County. Most don't get above download speeds of 5 Mbps.*

*Driving across the Central Valley's vast expanses of farmland, sometimes he happens on a stand of trees and a cluster of concrete brick buildings and trailers that house the families who work in those fields. The concrete blocks cell signal so children will sit outside with hotspots to log onto classes.*

*Telecommunications companies often don't build out to these areas, Santos said. When they do, they provide copper-based Digital Subscriber Line connections, an older, slower broadband technology. On one splicing assignment, he visited a man living in a trailer in Coalinga, whose discount \$10 per month DSL connection wasn't fast enough for both him and his son to go online at the same time, Santos said. So AT&T offered him a faster option, for \$40 per month. Still DSL, it didn't top 6 Mbps download speed.*

These anecdotes and the many others like them<sup>5</sup> demonstrate the realities in communities across California, urban and rural alike, that publicly-available coverage data provided by ISPs, even without taking into account widely acknowledged flaws in that data<sup>6</sup> including sometimes extreme overreporting of services offered.<sup>7</sup> The lived experiences documented in the CalMatters report, and similar stories included in, among other sources, media reports<sup>8</sup>, the Greenlining

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<sup>5</sup> See for example "Tens of thousands of L.A.-area students still need computers or Wi-Fi 6 months into pandemic;" <https://www.latimes.com/california/story/2020-09-15/tens-of-thousands-of-la-county-students-still-need-computers-and-hot-spots-six-months-into-school-closures>

<sup>6</sup> See for example, "Millions of Americans can't get broadband because of a faulty FCC map. There's a fix" <https://www.cnet.com/features/millions-of-americans-cant-get-broadband-because-of-a-faulty-fcc-map-theres-a-fix/>

<sup>7</sup> BroadbandNow Estimates Availability for all 50 States; Confirms that More than 42 Million Americans Do Not Have Access to Broadband; <https://broadbandnow.com/research/fcc-broadband-overreporting-by-state>

<sup>8</sup> See for example "Photo of Salinas students using Taco Bell WiFi spotlights long-standing digital divide" <https://www.thecalifornian.com/story/news/2020/08/28/taco-bell-wifi-becomes-key-salinas-students-education/5656952002/>

Institute report, “On the Wrong Side of the Digital Divide”<sup>9</sup>, and in several of the public comments in this proceeding<sup>10</sup>, lay bare the need for the Commission to include the interrelated factors of competition, redlining, affordability, and areas of greatest need as considerations in addition to maps of existing infrastructure and advertised or theoretically available service levels in its middle mile location recommendations.

By “areas of greatest need,” CCF concurs herein with the broad definition offered by the Southern California Council of Governments in their opening comments in this proceeding<sup>11</sup>: areas with high concentration of low-income households, senior citizens, at-risk young people and students, people at higher risk of poor health, and areas with slow economic growth or blight.

Lack of competition in the broadband market is endemic across California,<sup>12</sup> and is acute in urban and rural lower-income communities. California households in the top 10% of income are 32% more likely to have a choice between at least two broadband providers than those in the bottom 10% of income.<sup>13</sup> Figure 1 below<sup>14</sup> graphs the extremely close correlation between poverty and lack of competitive options for broadband.

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<sup>9</sup> <https://greenlining.org/publications/online-resources/2020/on-the-wrong-side-of-the-digital-divide/>

<sup>10</sup> See for example comments by Keith Dell'Aquila – CCSA Los Angeles, CA 90012 (Sep 03, 2021 2:49 pm), Alexa Sass Los Angeles, CA 90024 (Sep 03, 2021 10:03 am), and Sandy Mendoza Los Angeles 90040 (Sep 03, 2021 1:06 pm)

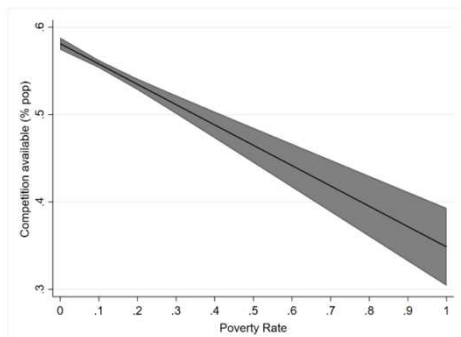
<sup>11</sup> <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M404/K292/404292349.PDF>

<sup>12</sup> <https://www.connectcalifornia.com/internet-service>

<sup>13</sup> How far is California from high-speed broadband for all? [https://www.cetfund.org/wp-content/uploads/2021/01/USC\\_Annenberg\\_Policy-Brief-7.pdf](https://www.cetfund.org/wp-content/uploads/2021/01/USC_Annenberg_Policy-Brief-7.pdf)

<sup>14</sup> *ibid*

Figure 1: Conditional estimate of population (%) served by two or more 100/10Mbps providers over poverty rate (95% confidence interval)



Competition is inextricably linked with price, speed, and reliability of broadband service.<sup>15</sup> Robust competition produces a market that better serves consumers, resulting in more competitive prices, better choice of offerings and improved customer service. Competition is fundamental to the state’s goals and should not be a controversial proposition.<sup>16</sup>

Extant broadband monopolies and duopolies that dominate Los Angeles’ communities with the highest concentrations of poverty and –with great implications for race equity—its communities with higher proportions of Black and brown residents,<sup>17</sup> have resulted in slower, less reliable, and more expensive service.<sup>18</sup>

The state’s investment in open-access middle-mile infrastructure is intended to be one component of closing the digital divide and advancing equitable access to broadband, a utility required for full participation in the 21<sup>st</sup> century. Given the clear connection between lack of competition and the extent to which so many low-income and Black and Brown communities in

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<sup>15</sup> Broadband Competition Helps to Drive Lower Prices and Faster Download Speeds for U.S. Residential Consumers;

[https://www.analysisgroup.com/globalassets/content/insights/publishing/broadband\\_competition\\_report\\_november\\_2016.pdf](https://www.analysisgroup.com/globalassets/content/insights/publishing/broadband_competition_report_november_2016.pdf)

<sup>16</sup> Economics 101: From Consumer Behavior to Competitive Markets--Everything You Need to Know About Economics;

[https://www.harvard.com/book/economics\\_101\\_from\\_consumer\\_behavior\\_to\\_competitive\\_markets--everything\\_you/](https://www.harvard.com/book/economics_101_from_consumer_behavior_to_competitive_markets--everything_you/)

<sup>17</sup> Who Gets Access to Fast Broadband? Evidence from Los Angeles County 2014-17;

<http://arniscusc.org/wp-content/uploads/2019/10/Policy-Brief-4-final.pdf>

<sup>18</sup> *ibid*

California have been “left in the slow lane,”<sup>19</sup> the Staff Report should include the imperative for the middle-mile to support more robust competition as a key consideration for locating the network.

As discussed above and in myriad previous opening and reply comments in this proceeding<sup>20</sup>, lack of competition, affordability, and redlining should be considered as interrelated factors. Monopoly or duopoly providers routinely bypass underserved communities when investing in new, more reliable, faster infrastructure, which leaves those communities with ever worsening service, and with few or no options for better connections at any price.<sup>21</sup> The communities most impacted by this complex of factors are not coincidentally those communities of greatest need.<sup>22</sup>

### **III. The October 2020 Federal Communications Commission (FCC) Should Be a Factor in the Staff Report’s Considerations**

The Staff Report should treat the FCC’s October 2020 decision to roll back federal regulatory obligations of incumbent providers as permanent, and should recommend locations for the state’s middle-mile open-access network under the assumption that the market availability of high

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<sup>19</sup> [AT&T’s Digital Divide in California](https://belonging.berkeley.edu/atts-digital-divide-california); <https://belonging.berkeley.edu/atts-digital-divide-california>

<sup>20</sup> See for example Public Advocates Opening Comments on Assigned Commission’s Ruling on Locations for a Statewide Open Access Middle Mile Network <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M405/K081/405081972.PDF> and Open-Access Middle Mile Reply Comments of the Utility Consumer’s Action Network (UCAN) <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M409/K224/409224263.PDF>

<sup>21</sup> Who Gets Access to Fast Broadband? Evidence from Los Angeles County 2014-17; <http://arnicusc.org/wp-content/uploads/2019/10/Policy-Brief-4-final.pdf> and [AT&T’s Digital Divide in California](https://belonging.berkeley.edu/atts-digital-divide-california); <https://belonging.berkeley.edu/atts-digital-divide-california>. Of note: per ConnectCalifornia, AT&T is one of the two incumbent providers in Los Angeles County; 14 minor providers have less than 1% coverage; <https://www.connectcalifornia.com/internet-service/los-angeles>

<sup>22</sup> On the Wrong Side of the Digital Divide; <https://greenlining.org/publications/online-resources/2020/on-the-wrong-side-of-the-digital-divide/>

quality and affordably priced privately-owned infrastructure will be significantly diminished after the decision is fully implemented effective 2028, further diminishing competition in the broadband market. The decision was in response to a petition from US Telecom, The Broadband Association<sup>23</sup>. The implications of the decision unbundling and resale provisions and associated obligations have been absent from these proceedings and should be seriously considered by the Commission. This absence glaringly overlooks the extraordinary reduction in regulatory obligations on incumbent ISP middle-mile infrastructure on the near horizon.<sup>24</sup> As such, the Staff Report should disregard comments regarding locating the state's assets only where there is no existing private infrastructure.

#### **IV. The Staff Report Should Consider Public Open Access Middle Mile Infrastructure as Both Responsive to and a Catalyst for Last Mile Facilities**

CCF concurs with the preponderance of Parties' comments in this proceeding regarding the importance of connecting middle-mile infrastructure investments to last-mile projects to get more unserved Californians online, and more underserved Californians access to faster, more reliable, more affordable broadband. However, CCF urges the Commission to consider California's historic investment in open-access middle-mile infrastructure not just in the context of already-planned last-mile solutions, but as a catalyst to spur new planning, partnerships, and

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<sup>23</sup> <https://ustelecom.org/wp-content/uploads/documents/USTelecom%20Forbearance%20Petition.pdf>

<sup>24</sup> The Last Smash and Grab at the Federal Communications Commission;  
<https://www.eff.org/deeplinks/2020/10/last-smash-and-grab-federal-communications-commission>



development, and as a “future proof” asset for last-mile buildouts that cannot be foreseen at this time.<sup>25</sup>

## V. Conclusion

CCF expresses its gratitude to the Assigned Commissioner, ALJ, and Commission Staff for their careful consideration of myriad factors as they draft the Staff Report, and for their ongoing inclusion of equity concerns throughout this proceeding.

Dated: October 1, 2021

Respectfully submitted,

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<sup>25</sup> See the Benton Institute for Broadband & Society’s December 2020 publication “If We Build It, Will They Come? Lessons from Open-Access, Middle-Mile Networks” for examples of open-access middle-mile investments as catalytic, rather than merely responsive to existing plans.  
<https://www.benton.org/publications/middle-mile>