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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

**REPLY OF THE CORPORATION FOR EDUCATION NETWORK INITIATIVES IN
CALIFORNIA (CENIC) TO THE RULING ORDERING ADDITIONAL COMMENTS
AS PART OF THE MIDDLE-MILE DATA COLLECTION**

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October 15, 2021

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I. Introduction

The Corporation for Education Network Initiatives in California (“CENIC”) respectfully submits these reply comments pursuant to the California Public Utilities Commission’s (“Commission” or “CPUC”) Administrative Law Judge’s email ruling on September 9, 2021, ordering additional comments as part of the middle-mile data collection related to the middle-mile network. This email ruling seeks additional input on issues raised during the prior round of comments following the August 6, 2021, Assigned Commissioner Ruling. CENIC responds to some of the comments made by other parties at this time and offers this reply to continue informing the record of this proceeding.

II. Discussion

A. Open Access and Middle-Mile Network Services for ISPs

CENIC was pleased to see that some of the parties were in agreement that relying on contract law is the best path to support the middle-mile network so it can be deployed as quickly as possible, especially given the time constraints in the federal statute.¹ As we noted in our opening comments for this round of questions, CENIC still believes that the most advantageous and quickest route for the middle-mile network to achieve the open-access protections will be through the contractual process. We are also supportive of the comments that urge the CPUC to continue working with local bodies and stakeholders to help with the identification of locations.² Further, we would suggest that this work by the CPUC is best suited for and applied to last-mile projects. By working more closely with communities on their last-mile challenges, the CPUC will be better situated to surface the historical barriers and challenges for any given local community and assist those communities through their technical assistance efforts to put forth robust last mile-projects so the end users, Californians, can have access to broadband.

Middle-mile, by its very definition, does not directly connect the end user in the last-mile. And, we support the premise that some of the questions in this round of comments are misplaced or out of scope.³ In addition, as noted by the Electronic Frontier Foundation, the middle-mile network's most attractive element will be that it does not compete with last-mile

¹ See Southern California Edison p. 2-3; Geolinks Comments, p. 2; Comcast Comments, p. 3-6; The Utility Reform Network ("TURN") Opening Comments, p. 2, 4-6

² See Southern California Association of Governments Comments, p. 6; San Diego Association of Governments ("SANDAG") Additional Comments, p. 3-4; TURN Opening Comments, p. 2; Small Business Utility Advocates Comments, p. 5; Los Angeles County Economic Development Corporation Comments, p. 3, 7

³ See Cellco Partnership dba Verizon Additional Comments, p. 2; USTelecom-the Broadband Associations Comments, p. 1-2; AT&T California Opening Comments, p. 3; Frontier Comments, p. 1; California Cable and Telecommunications Association ("CCTA") Comments, p. 2-3; Comcast Comments, p. 2

broadband service.⁴ Further, the Center for Accessible Technology expressed reservations related to the state-operated middle mile offering “direct sales” of services as it will already be a complicated and difficult undertaking.⁵ By the CPUC focusing its attention on supporting local community needs, we anticipate that such efforts would bear fruit through the demonstration of successful last-mile applications that come forward as a result.

Comments from SANDAG and the California Emerging Technology Fund (“CETF”) urged the CPUC to consider leveraging other public infrastructure such as county and tribal roads, transit and rail rights-of-ways, and public utility rights-of-ways.⁶ CENIC believes that these suggestions have merit. In a state as large as California, all opportunities to deploy broadband infrastructure for the middle-mile network should be on the table as an option for the statewide middle-mile network to pursue. This can be a useful exercise that benefits last-mile projects as well. Failure to consider all available routes means that the best path into a community – one that offers resiliency and diversity – may not be prioritized or elevated for consideration. While these non-state-controlled routes may present other challenges with respect to broadband deployment, all entities with “assets” to offer to the middle-mile network should be urged to streamline their own processes for the public benefit, if they haven’t already done so. These are actions that local governments, metropolitan planning organizations, and local transportation bodies could be pursuing concurrently to these state-level activities as exemplified by the County of Los Angeles and others.⁷

⁴ See Electronic Frontier Foundation, Comments, p. 6

⁵ See Center for Accessible Technology Comments, p.9

⁶ See SANDAG Additional Comments, p. 4, 8; CETF Comments, p. 15

⁷ See UNITE-LA Comments, p. 5 citing the August 31, 2021 action by the Los Angeles County Board of Supervisors adopted motion “Utilizing Existing Infrastructure and Resources to Accelerate Digital Equity”; CETF Comments, p. 9

A few of the opening comments urged the CPUC to revisit their rules that prevent CENIC, and in turn the California Research and Education Network (“CalREN”), from being an open-access middle mile network.⁸ CENIC would note that the issue is not related to the CPUC; rather, we infer from the comments made that the issue being raised actually has more to do with the current Federal Communications Commission (“FCC”) E-rate rules. These rules (that were in place prior to and maintained throughout the pandemic) prohibit schools and libraries from providing or supporting internet access off-campus (beyond the school or library property line) through their E-rate discounted services.⁹ The E-rate subsidies are essential for many schools and libraries to be able to afford their telecommunications services. These discounts, which can be as high as 90%, are applied to both the one-time special construction as well as the monthly recurring costs for the eligible entity.¹⁰ Currently, there is advocacy occurring at the federal level to make changes to the E-rate rules; however, this is ultimately a federal issue. For the CPUC record in this proceeding, it should be noted that the total funding requested this year by California schools and libraries was \$373 million, a little over 12% of all funding requested nationwide.¹¹ Failure of recipients to follow E-rate (as well as California Teleconnect Fund) rules results in non-compliance that can lead to audit findings, and, potentially, repayment of federal funds.

B. Last-Mile Providers

CENIC supports the comments that urge the CPUC to use the California Advanced Services Fund (“CASF”) program to fund last-mile projects, including those that use the middle-

⁸ See SANDAG Additional Comments, p. 6, Borrego Springs Infrastructure Committee (“BSIS”) Response Comments, p. 4, 9

⁹ The Broadband Infrastructure Improvement Grant (“BIIG”) and the Broadband Infrastructure Grant (“BIG”) ensured that schools maximize E-rate funds to build as well as pay for their ongoing monthly connections. Borrego Springs Unified was a beneficiary of the BIIG 2.0 program.

¹⁰ The E-rate program also requires a competitive bidding process, which would further complicate serving schools and libraries as part of the middle-mile network, unless the state was willing to forgo these federal funds.

¹¹ Demand Estimate filed by USAC with FCC and USAC Funding Request Status Tool reports as of May 12, 2021.

mile network.¹² CENIC believes that this is a practical route to maximize state investments and provide a reciprocal benefit to both parties. First, this provides “customers” for the middle-mile network, and second, the middle-mile network can provide the necessary transport or backhaul to a last-mile project so that the end users can reach the global internet. In short, both last-mile and middle-mile projects are needed, and serve complementary roles. If fiber is built that doesn’t interconnect with other networks or the major exchange points, then it isn’t a valuable asset or useful commodity.

C. Other Issues

CENIC reiterates that a series of roundtables, led by the Third-Party Administrator (“TPA”),¹³ with specific interest groups would be a very productive format in which to examine and work through these issues, and others, that have been raised during the public comment process. We were pleased to see that Geolinks also raised this as a suggestion.¹⁴

III. Conclusion

CENIC is grateful to have the opportunity to continue providing additional thought partnership in this proceeding to support the success of the statewide open-access middle-mile broadband network. While there were comments from parties to urge the CPUC to change its rules so CalREN¹⁵ can be an open-access network, we think that this concern may be misplaced and is an issue with the federal restrictions on the use of services that receive E-rate funding. CENIC remains faithful to the efforts of the CPUC in focusing its time and attention on matters

¹² See TURN Opening Comments, p. 12; CCTA Comments, p. 11; Frontier Comments, p. 4

¹³ The Third-Party Administer for the California Department of Technology is CENIC California Middle-Mile Broadband Initiative, LLC, a subsidiary of CENIC.

¹⁴ See Geolinks Comments, p. 3

¹⁵ CalREN is the California Research and Education Network operated by CENIC for the purposes of serving the research and education community.

that further support the development of last-mile projects, including funding more CASF projects, to serve California end-users.

Respectfully submitted,

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