

ALJ/SMW/lil 7/6/2022



FILED

07/06/22

09:29 AM

A2010008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Zayo Group, LLC
(U6102C) for Modification of its
Existing Certificate of Public
Convenience and Necessity.

Application 20-10-008

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING FURTHER INFORMATION**

Governor Gavin Newsom signed legislation in July 2021 regarding service of Broadband in California, which is identified as Senate Bill 156 - Chapter 112, Statutes of 2021 (SB156). The purpose of this legislation is to help bridge the digital divide and provide reliable and affordable internet access to all Californians, and expand the state's broadband fiber infrastructure and increases internet connectivity for families and businesses.

SB 156 envisions that the State of California will acquire, build, maintain and operate an essential open-access statewide middle-mile network, which will be overseen by the California Department of Technology (CDT). SB 156 also created a statutory exemption from the requirements of the California Environmental Quality Act (CEQA) for qualifying middle-mile projects.

In order to properly consider Zayo Group LLC's (Zayo) Application 21-03-009 (or Application) for a Certificate of Public Convenience and Necessity, the California Public Utilities Commission requires further information regarding Zayo's request and how it relates to SB156. Reference to "project" herein refers to the proposed construction of fiber optics cable and

specified telecommunication network facilities addressed by Zayo in the current Application. Provide supporting documentation for all responses. Inquiries are as follows:

1. What are the public benefits of the Zayo project?
2. How will the project help bridge the digital divide and provide reliable and affordable internet access to Californians?
3. How will the project serve California customers?
4. How will last-mile internet providers be able to access the project to serve California customers?
5. If offered, what are the open access provisions for last-mile internet service providers?
6. What, if any, commitments has Zayo made to participate in the statewide open access middle mile?
7. Can the project include placement of facilities as described in the attached letter from CDT? (*See attached*)
 - a. Would this impact the feasibility of the project, and if so, how?
8. What are the practical implementation considerations (price sheets, contract language, etc.) which Zayo proposes to use if they were considered to be part of the statewide middle-mile network?
9. Does the project qualify for the CEQA exemption created by SB156? (*See attached*).

Within ten (10) days of the date of this ruling, the Applicant must provide all the necessary documents and requests for additional information discussed above. Failure to provide the requested information may result in dismissal of the Application for failure to prosecute. Applicant's filing must be titled "Response to Administrative Law Judge's Ruling Directing the Filing of Required Verifications," otherwise a new protest period will be triggered. If

there are questions regarding the required information, Applicant may contact Administrative Law Judge Seaneen Wilson at seaneen.wilson@cpuc.ca.gov by e-mail, copying the service list on all communications.

IT IS SO RULED .

Dated July 6, 2022, at San Francisco, California.

/s/ SEANEEN WILSON

Seaneen Wilson
Administrative Law Judge

ATTACHMENT 1

STATE OF CALIFORNIA

GAVIN NEWSOM, Governor



CALIFORNIA DEPARTMENT OF TECHNOLOGY

P.O. Box 1810
Rancho Cordova, CA 95741-1810
(916) 319-9223

Russell Nichols, Acting Director
Russell Nichols, Chief Deputy Director

May 23, 2022

Jonathan Lakritz
Title: Program Manager
Via email: jonathan.lakritz@cpuc.ca.gov

SUBJECT: MMBI Joint Builds

Dear Johnathan Lakritz,

The Middle Mile Broadband Initiative (MMBI) program is critically important to every resident of the State of California. Thus, it is vital the program make informed and objective decisions when determining the approach to be employed in the implementation of the system. Partnering on joint builds will be a key component in the solutioning of the network.

Careful consideration will be given to all proposed joint build partnerships. At the core of the decision to enter a joint build arrangement will be the alignment to the State of California's defined goals of the program as outlined in SB 156. To the extent a joint build partnership can bring benefit to the program via cost savings, speed to market, or added resiliency and align to the defined routes it will be a prime candidate for partnering. The target design for a joint build is MMBI ownership of 2 conduits, 288 fiber count, and vaulting every 2500 feet. While this is the target design, there exists flexibility in this design which can be negotiated. Attached are two forms which detail the information needed by the CDT's MMBI program to start evaluating any potential joint build proposals.

The MMBI program looks forward to engaging with all potential partners to explore how they can contribute to the overall success of this critical project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Monroe".

Mark Monroe (Jun 3,

Mark Monroe
Deputy Director, Middle-Mile Broadband Initiative
California Department of Technology

Joint Build Project Description			
Project Name		CPUC-identified routes	Fiber Count
CASF Funded		Permits Submitted	CalTran SHS
Construction Start		Construction End	Date Available
Number of Miles		Underground Miles	Aerial Miles
Total Conduit Count		CDT Conduit Count	Conduit Size in Inches
Contract Owner		CDT Infra. Owner	Maintenance Owner
		Total Sharable Costs	
Sharable Costs - CDT		Unique Costs - CDT	Total Costs - CDT
Project Location:			
Products and Services			
Access to Infrastructure			
Notes:			

Project Name	Example									
		Original Contract Estimate			CDT Share of Original Estimate			Estimate of CDT Unique Costs		
	Materials	Quantity	Unit Price	Total	Quantity	Unit Price	Total	Quantity	Unit Price	Total
	Design Support									\$210,000
	Construction Support									\$780,000
Pull Boxes	6(E)(E)(T)	11	2,200	\$24,200						
	6E(T)	141	1,800	\$253,800						
	5(T)							152	1,450	\$220,400
	Vault							25	\$10,000	\$250,000
Conductors-(ft)	#12 (Tracer Wire)							47552	\$2	\$95,104
	2" termination conduit to pull box from the bridge							80	\$100	\$8,000
Conduit-(ft)	2" Fiberglass conduit w/enclosure (bridge)	160	210	\$33,600	80	210	\$16,800			
	MDCS(4), microtrench	189200	22	\$4,162,400	94600	22	\$2,081,200			
	MDCS(4) (HDD)	400	33	\$13,200	200	33	\$6,600			
	2" termination conduit to PB from bridge	160	100	\$16,000	80	100	\$8,000			
Single mode FO Cable-(ft)	FO288							100500	\$13	\$1,306,500
Misc	Delineator	304	75	\$22,800	152	75	\$11,400			
	FO Testing/Verification							1	\$10,000	\$10,000
State Furnished Materials	COZEEP Contract	1	\$1,000,000	\$1,000,000						\$1,176,096
	Traffic Control (total SHOPP project)	1	\$1,830,666	\$1,830,666						
	TRO (total SHOPP project)	1	\$1,001,922	\$1,001,922						
	Mobilization (~10% of total project)	1	\$2,804,900	\$2,804,900						
	Total			\$11,163,488			\$2,124,000			\$4,056,100
								CDT Total Cost		\$6,180,100

(END OF ATTACHMENT 1)

ATTACHMENT 2

CEQA Exemption

21080.51.

(a) This division does not apply to a project funded by Item 7502-062-8506 of the Budget Act of 2021 or any entity, including a public entity or private or nonprofit corporation, that consists of linear broadband deployment in a right-of-way if the project meets all of the following conditions:

(1) The project is located in an area identified by the Public Utilities Commission as a component of the statewide open-access middle-mile broadband network pursuant to Section 11549.54 of the Government Code.

(2) The project is constructed along, or within 30-feet of, the right-of-way of any public road or highway.

(3) The project is either deployed underground where the surface area is restored to a condition existing before the project or placed aerially along an existing utility pole right-of-way.

(4) The project incorporates, as a condition of project approval, measures developed by the Public Utilities Commission or the Department of Transportation to address potential environmental impacts. At minimum, the project shall be required to include monitors during construction activities and measures to avoid or address impacts to cultural and biological resources.

(5) The project applicant agrees to comply with all conditions otherwise authorized by law, imposed by the planning department of a city or county as part of a local agency permit process, that are required to mitigate potential impacts of the proposed project, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as applicable, other applicable state laws, and all applicable federal laws.

(b) If a project meets all of the requirements of subdivision (a), the person undertaking the project shall do all of the following:

(1) Notify, in writing, any affected public agency, including, but not limited to, any public agency having permit, land use, environmental, public health protection, or emergency response authority, of the exemption of the project pursuant to this section.

(2) Provide notice to the public in the area affected by the project in a manner consistent with subdivision (b) of Section 21108.

(3) In the case of private rights-of-way over private property, receive from the underlying property owner permission for access to the property.

(4) Comply with all conditions authorized by law imposed by the planning department of a city or county as part of any local agency permit process, that are required to mitigate potential impacts of the proposed project, and otherwise comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as applicable, other applicable state laws, and all applicable federal laws.

(END OF ATTACHEMENT 2)