

**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.

Rulemaking 20-09-001

**COMMENTS OF COMCAST PHONE OF CALIFORNIA, LLC (U-5698-C) ON  
ASSIGNED COMMISSIONER'S RULING**

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*For Comcast Phone of California, LLC*

September 3, 2021

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Comcast Phone of California, LLC (U-5698-C) respectfully submits these comments in response to the *Assigned Commissioner’s Ruling* (“Ruling”) issued August 6, 2021 in the above-captioned docket.

**I. INTRODUCTION AND GENERAL RECOMMENDATIONS**

Comcast Phone of California, LLC and its affiliates (together, “Comcast”) has a longstanding presence in California and offers broadband speeds up to 1.2 Gbps to virtually all of the homes in its California footprint. Thanks in large part to cable Internet Service Providers (“ISPs”) such as Comcast, *95 percent* of California households have access to fixed broadband at 100 Mbps download speeds, according to Commission data.<sup>1</sup> In California, the cable industry has invested more than \$40 billion in network facility upgrades since 1996, consistently increasing network capacity to stay ahead of consumers’ ever-increasing need for high-speed connectivity.<sup>2</sup>

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<sup>1</sup> See Ruling, Attachment 1. At the 25/3 Mbps speed threshold, over 95 percent of California households have access to wireline broadband, according to FCC data as of June 2020, and nearly 99 percent have access to fixed, terrestrial broadband. See FCC Broadband Map, Fixed Broadband Deployment, California, [https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=state&geoid=06&tech=acfo&speed=25\\_3&vlat=37.41896076143145&vlon=-119.30660699999999&vzoom=4.740325157867542](https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=state&geoid=06&tech=acfo&speed=25_3&vlat=37.41896076143145&vlon=-119.30660699999999&vzoom=4.740325157867542) and [https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=state&geoid=06&tech=acfo&speed=25\\_3&vlat=37.41896076143145&vlon=-119.30660699999999&vzoom=4.740325157867542](https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=state&geoid=06&tech=acfo&speed=25_3&vlat=37.41896076143145&vlon=-119.30660699999999&vzoom=4.740325157867542).

<sup>2</sup> See California Cable & Telecommunications Association, Cable in California, <https://cable.org/learn/cable-in-california/>.

And robust intermodal competition from other broadband providers means that Comcast and other cable operators must continue to extend and upgrade their networks to attract and retain customers.

While the vast majority of California households have access to high-speed, high-quality broadband, some still remain on the wrong side of the digital divide. Public funding can play an essential role in closing those gaps in remote, high-cost, and other difficult-to-connect areas. California's \$3.25 billion investment in a statewide middle-mile broadband network (the "Middle-Mile Network") should therefore be directed where it is needed most and will produce the greatest benefit to unserved residents and businesses.

Under Senate Bill ("SB") 156,<sup>3</sup> the Commission has an important but limited role in helping the Office of Broadband and Digital Literacy (the "Office") within the California Department of Technology identify potential locations for the Middle-Mile Network.<sup>4</sup> Comcast respectfully submits that this proceeding should focus on those responsibilities without being sidetracked by operational issues that are premature to address at this early stage or by other policy goals that are beyond the scope of the Commission's statutory mandates. In addition, SB 156 creates a key role for the Third-Party Administrator (the "Administrator") "to manage the development, acquisition, construction, maintenance, and operation of [the Middle-Mile Network], including the creation of rural exchange points."<sup>5</sup> The Commission should commit to working collaboratively with the Office and the Administrator, which will bear primary responsibility for the deployment and day-to-day operation of the Middle-Mile Network and must be free to exercise their own judgment and authority, as the Legislature intended.

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<sup>3</sup> Ch. 112, Stats of 2021, taking effect July 20, 2021 as an urgency measure.

<sup>4</sup> See Cal. Gov't Code § 11549.54.

<sup>5</sup> *Id.* § 11549.53(b)(1).

As the Commission assists with identifying potential Middle-Mile Network routes, a focus on enabling last-mile deployment in truly unserved areas that lack at least 25/3 Mbps broadband service is not just good policy, but is also consistent with both California and federal law. Among other things, SB 156 directs the Commission to “prioritize locations that enable last-mile connections to residences unserved by 25 mbps downstream and 3 mbps upstream.”<sup>6</sup> And when recommending routes along state highway rights-of-way, the Commission must “prioritize a geographically diverse group of projects in rural and urban areas of the state to achieve the greatest reductions in the amount of households unserved by broadband internet access service meeting federal and state standards.”<sup>7</sup>

Moreover, because the Middle-Mile Network will be paid for with Coronavirus Fiscal Recovery Funds administered by the U.S. Treasury, the state must comply with Treasury’s conditions and guidance for the use of those funds. All such federally funded broadband infrastructure projects must be “designed to serve unserved or underserved households and businesses, defined as those that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.”<sup>8</sup> Indeed, Treasury has clarified that, to meet this requirement, “states and localities should use funds to deploy broadband infrastructure projects whose objective is to provide service to unserved or underserved households or businesses.”<sup>9</sup> And with respect to middle-mile broadband infrastructure projects that must be

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<sup>6</sup> *Id.* § 11549.54(d).

<sup>7</sup> *Id.* § 11549.54(e)(1).

<sup>8</sup> U.S. Treasury, *Coronavirus State and Local Fiscal Recovery Funds FAQs* § 6.5 (July 19, 2021), <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf> (“Treasury CSLFRF FAQs”); 31 C.F.R. § 35.3(3) (defining unserved and underserved households and businesses); *id.* § 35.6(e)(2) (outlining eligible broadband infrastructure uses).

<sup>9</sup> Treasury CSLFRF FAQs § 6.8.

designed to serve unserved and underserved households and businesses, Treasury “encourages recipients to focus on projects that will achieve last-mile connections . . . by ensuring that funded middle-mile projects have potential or partnered last-mile networks that could or would leverage the middle-mile network.”<sup>10</sup> These federal requirements and guidance further support a focus on unserved areas, because demand for additional middle-mile capacity is questionable at best in areas where there are already numerous commercial middle-mile and last-mile providers.

Consistent with legislative intent and Treasury rules, the Commission’s priority in this proceeding should be to facilitate deployment of middle-mile infrastructure in unserved areas, where it will truly help bring broadband to Californians that currently lack access. The \$3.25 billion set aside for the Middle-Mile Network is a significant investment toward universal broadband access – but only if it is not wasted on duplicative infrastructure in areas that already have robust broadband while other Californians in unserved, predominantly rural, areas remain left behind. To that end, and as explained further below, Comcast recommends a tiered approach to identifying locations for the Middle-Mile Network, whereby the truly unserved areas receive the highest priority. In this regard, Comcast is concerned that the “Anchor Build Fiber Highways” map referenced in the Ruling appears to propose routes through major population centers rather than unserved areas and improperly deviates from Treasury’s definition of “unserved” and “underserved.” At the same time, the highway route map bypasses many remote unserved areas that are less populated and are not linked by major highways. The Commission should modify its approach to promote last-mile deployments in unserved areas rather than excess middle-mile capacity along highway corridors connecting areas where robust broadband is already available.

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<sup>10</sup> *Id.* § 6.10.

## II. RESPONSES TO QUESTIONS<sup>11</sup>

1. **Identifying Existing Middle-Mile Infrastructure:** Attachment A provides a list of the state routes proposed for the statewide open access Middle-Mile Network, referred to as the “Anchor Build Fiber Highways.” These routes may also be viewed on an ArcGIS map, which can be found [here](#).

- What routes, if any, should be modified, removed from consideration, or revised? Provide an explanation for these suggestions.
- Are there existing middle-mile routes that are open access, with sufficient capacity, and at affordable rates on the county highway routes listed in Attachment A?
- In the context of these comments, what is sufficient capacity and affordable rates?
- For routes that are identified as being open access, with sufficient capacity, and at affordable rates, how should the Commission verify these claims (e.g., should Communications Division send a data request for service term sheets, rates, approximate dark fiber, lit fiber, and conduit capacity, etc.)? Are there any other criteria that should be used to verify these claims?

### COMCAST’S RESPONSE

With regard to the highway routes listed in Attachment 1, large portions of the proposed map appear inconsistent with directives to focus on unserved areas. As a preliminary matter, Attachment 1 fails to consider whether the proposed routes would be designed to serve households

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<sup>11</sup> Comcast has no comment at this time in response to Questions 3-6 but reserves the right to comment further on reply. Comcast respectfully submits that questions regarding design and operation of the Middle-Mile Network are generally premature and beyond the scope of the Commission’s statutory role in identifying priority network routes. SB 156 directs the Commission to identify “known middle-mile infrastructure that is open access, with sufficient capacity,” and to prioritize routes for the Middle-Mile Network through “regions underserved by middle-mile networks, and regions without sufficient capacity to meet future middle-mile needs.” Cal. Gov’t Code § 11549.54(b)-(c). These questions are distinct from how much capacity should be built into the Middle-Mile Network once it is deployed, how conduit should be installed within each network route, leasing and interconnection, and other operational decisions within the purview of the Office and the Administrator. The Commission’s focus at this stage should be on identifying priority routes for the Middle-Mile Network to provide the greatest benefit in unserved areas that currently lack such infrastructure.

and businesses that lack 25/3 Mbps broadband service, as the Treasury rules require. While potentially relevant for other purposes, a 100 Mbps downstream speed threshold is not an appropriate starting point for identifying the most unserved areas, as the Legislature and Treasury intended.<sup>12</sup>

Moreover, there are discrepancies in the Attachment 1 data that call into question its reliability. For example, the Attachment 1 data indicate that of 1,380 total households in Shasta County, all 1,380 – or 100 percent – are unserved at 100 Mbps downstream. But there are more than 71,000 households in Shasta County, according to census data, so it is unclear why the Commission may only be considering a subset or how the actual total would change its analysis of unserved areas.<sup>13</sup> It is therefore difficult for parties to comment on whether particular Middle-Mile Network routes should be modified, removed from consideration, or revised based on the current map and data. To ensure a focus on truly unserved areas, the Commission should review and correct its data and issue a revised highway route map based on service availability at 25/3 Mbps. Interested parties including Comcast and other ISPs should then be permitted to comment on whether they already provide service in areas targeted for new middle-mile deployment.<sup>14</sup>

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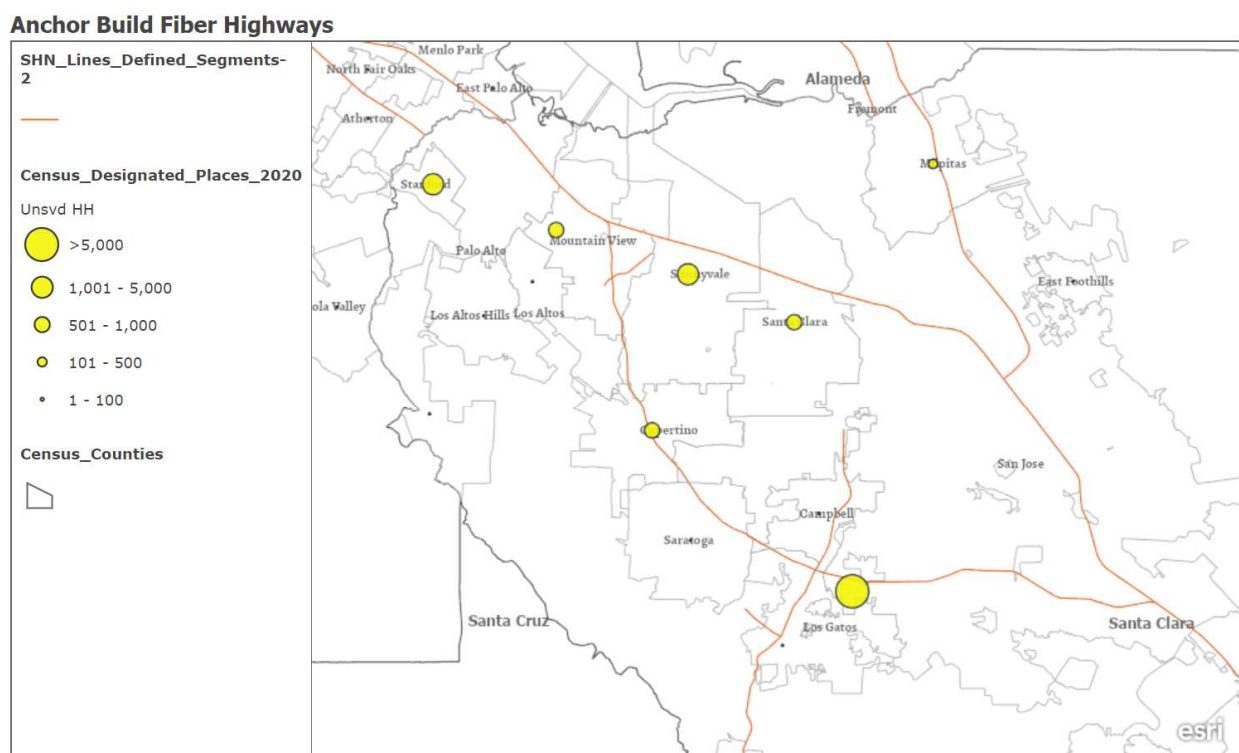
<sup>12</sup> Comcast recognizes that Executive Order (“E.O.”) N-73-20 directs state agencies “to pursue a minimum broadband speed goal of 100 megabits per second download speed to guide infrastructure investments and program implementation to benefit all Californians.” Executive Order N-73-20, at 2 (Aug. 14, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/08/8.14.20-EO-N-73-20.pdf>. But this is an aspirational goal for *future network builds and upgrades*, not a threshold for identifying unserved areas. In any event, this general language in E.O. N-73-20 does not supersede specific directives in SB 156 and Treasury rules to use areas unserved at 25/3 Mbps as the standard for prioritizing Middle-Mile Network routes built with federal funds.

<sup>13</sup> See U.S. Census Quick Facts, Shasta County, California, <https://www.census.gov/quickfacts/fact/table/shastacountycalifornia/BPS030220>.

<sup>14</sup> While not a “challenge” process as such, this approach would be consistent with mechanisms in the California Advanced Services Fund (“CASF”) and other programs allowing ISPs to demonstrate service availability before funds are allocated to projects that could duplicate existing infrastructure. See, e.g., Pub. Util. Code § 281(f)(8) (requiring that each CASF applicant, and any party challenging an



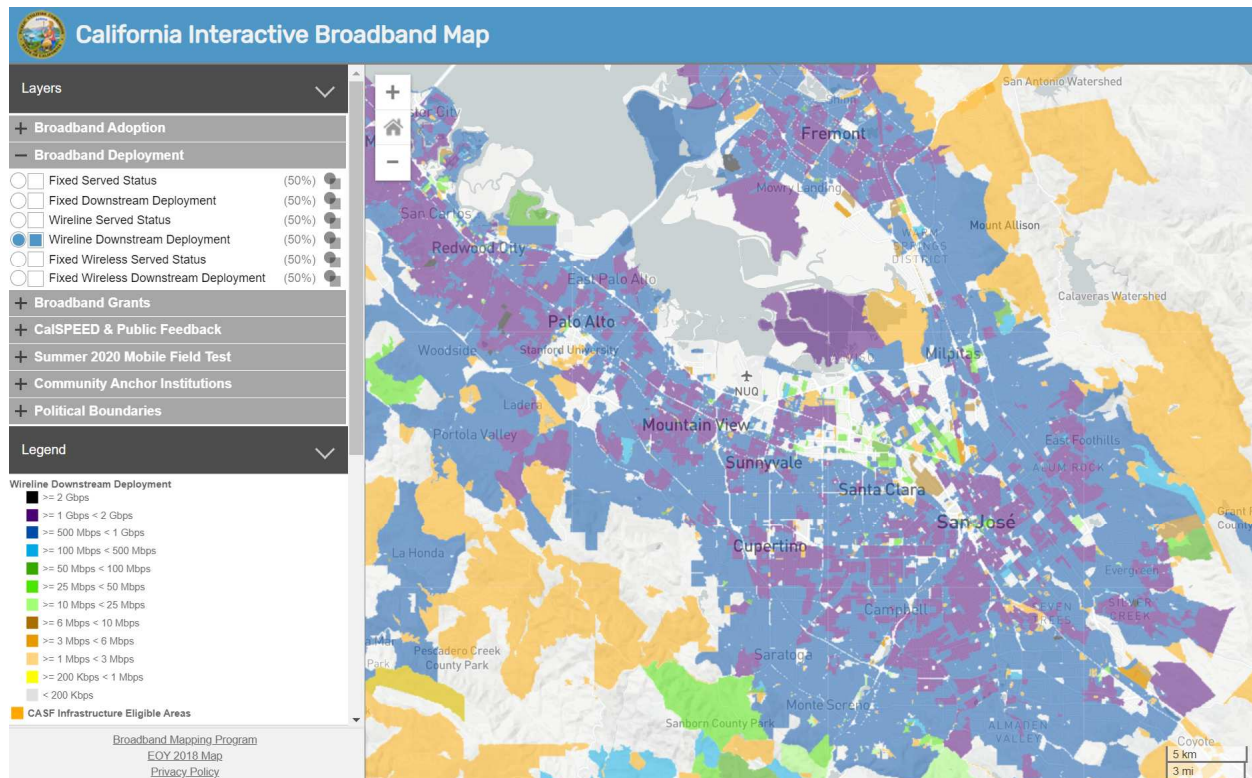
Even assuming the accuracy of the underlying data, the proposed list and map of routes for the Middle-Mile Network generally correspond to major highway routes, which tend to pass through large population centers where robust broadband is already widely available. This approach produces puzzling results. Some of the largest yellow circles in the map (i.e., areas with more than 1,000 or 5,000 households unserved at 100 Mbps downstream) are in the Bay Area, Los Angeles, and Orange County – which may have pockets of households without service at that speed but are not “unserved areas” by any stretch of the imagination. (Nor, to the extent there is any issue for these households, would it likely have anything to do with lack of access to adequate *middle-mile* infrastructure.) The map below, for example, shows several proposed Middle-Mile Network routes through the heart of Silicon Valley:



Esri, USGS | California Public Utilities Commission (CPUC)

application, have “the opportunity to demonstrate actual levels of broadband service in the project area, which the commission shall consider in reviewing the application”).

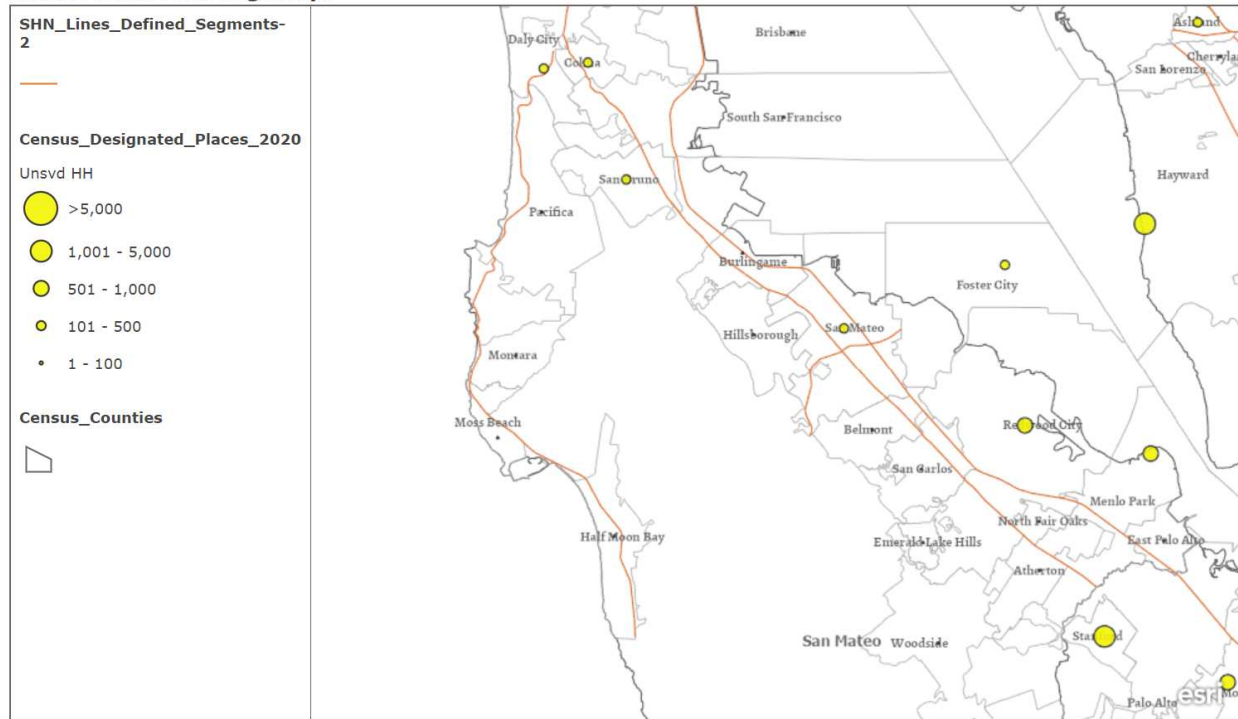
According to the Commission’s Interactive Broadband Map, however, these areas are almost universally served at 500 Mbps or higher downstream speeds (shown in dark blue), with large portions receiving in excess of 1 Gbps (shown in purple)<sup>15</sup>:



Other proposed Middle-Mile Network routes would reach few (if any) currently unserved households even by the Commission’s own estimates, such as the 20-plus-mile route below in San Mateo County running from Daly City through Half Moon Bay:

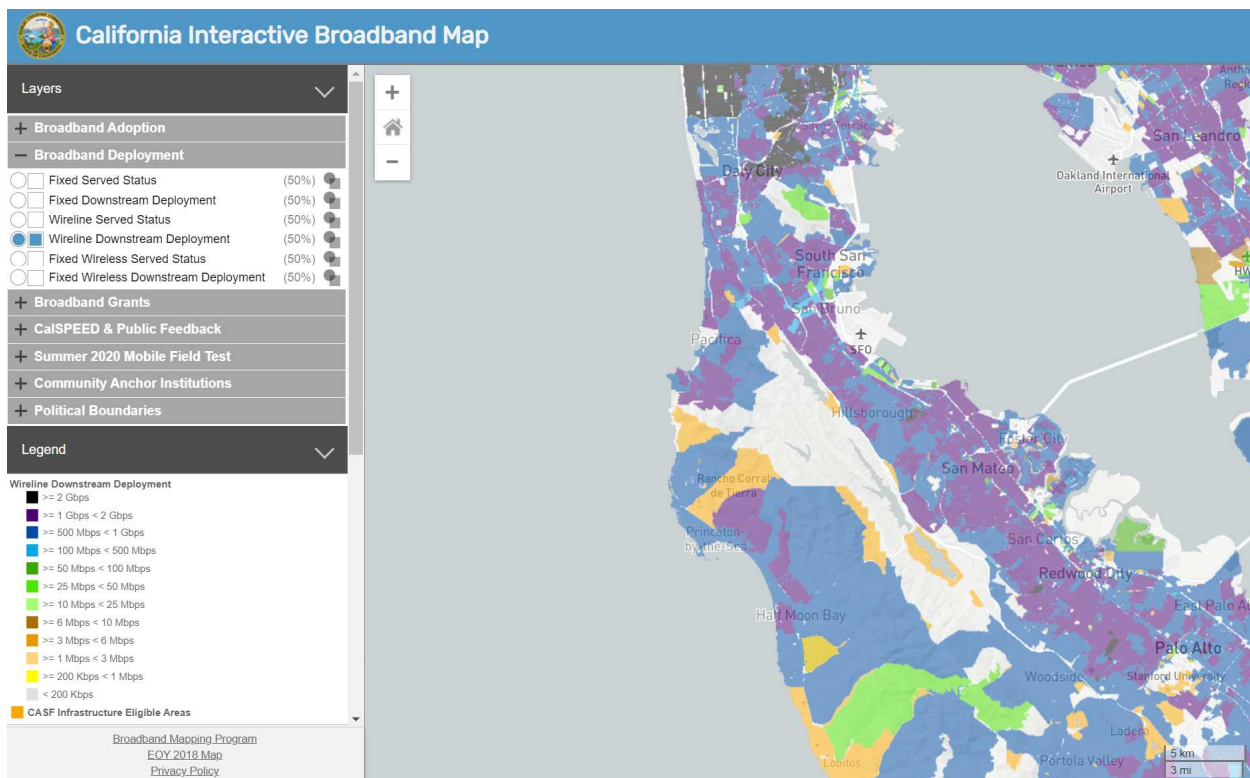
<sup>15</sup> See California Interactive Broadband Map, Wireline Downstream Deployment, <https://www.broadbandmap.ca.gov/> (reflecting data as of end-of-year 2018).

## Anchor Build Fiber Highways



Esri, USGS | California Public Utilities Commission (CPUC)

Once again, the Commission's broadband map shows widespread availability of 500 Mbps or higher downstream speeds in the communities passed by this proposed Middle-Mile Network route:



In budget estimates provided during consideration of SB 156, the Legislature anticipated that the total statewide average cost per mile of the Middle-Mile Network would be approximately \$455,000.<sup>16</sup> Based on that estimate, the above example alone would expend more than \$9 million<sup>17</sup> for an unnecessary stretch of new middle-mile deployment. Despite corresponding to existing highway routes, these are not the unserved areas of California that the Legislature and Governor intended to prioritize for new middle-mile infrastructure.

Analysis of the *percentage* of unserved households in each area would produce a more accurate picture of need, and the Ruling already contains the data for such analysis. For example, Attachment 1 reflects that *81 percent* of households in both Mariposa and Plumas counties lack

<sup>16</sup> See Legislative Analyst's Office, *The 2021-22 Budget: Preliminary Comments on the Governor's May Revision Proposal for Broadband Infrastructure* (May 24, 2021), <https://lao.ca.gov/Publications/Report/4440>.

<sup>17</sup> Twenty-plus miles between Daly City and Half Moon Bay \* \$455,000 per mile = \$9,100,000.

service at 100 Mbps, and 85 percent of households in Alpine County are unserved at that speed.<sup>18</sup> Yet the map typically proposes only one or two new Middle-Mile Network routes through these counties – which are geographically vast – while proposing numerous other routes throughout the very well-served Bay Area and Los Angeles/Orange County regions. This approach conflicts with SB 156’s directive to prioritize highway routes “to achieve the greatest reductions in the amount of households unserved by broadband.”<sup>19</sup>

The Commission should re-focus its list of routes for the Middle-Mile Network to prioritize a mesh of smaller highways serving more rural and unserved areas of the state, which will more directly enable new last-mile connections in these areas. The Commission must begin this analysis of unserved areas with the 25/3 Mbps speed threshold specified in SB 156 and Treasury rules. Only after ensuring that the Middle-Mile Network will in fact benefit these truly unserved areas should the Commission then consider a higher speed threshold such as 100 Mbps downstream to identify additional priority areas. At a minimum, the Commission should *remove* from its list any proposed route in a geographic area in which more than 50 percent of households already have access to at least 25/3 Mbps broadband service, where access to the Middle-Mile Network is unlikely to result in meaningful last-mile deployment to unserved households.

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<sup>18</sup> About 43 percent of households in Mariposa County are unserved by wireline broadband at 25/3 Mbps, compared with 68 percent in Plumas County and 74 percent in Alpine County. See FCC Broadband Map, Fixed Broadband Deployment, Mariposa County, CA, [https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=county&geoid=06043&tech=acfo&speed=25\\_3&vlat=37.5444866644395&vlon=-119.8513625&vzoom=8.953105800572404](https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=county&geoid=06043&tech=acfo&speed=25_3&vlat=37.5444866644395&vlon=-119.8513625&vzoom=8.953105800572404); *id.* Plumas County, CA, [https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=county&geoid=06063&tech=acfo&speed=25\\_3&vlat=40.02482092152408&vlon=-120.7986095&vzoom=8.661316251971396](https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=county&geoid=06063&tech=acfo&speed=25_3&vlat=40.02482092152408&vlon=-120.7986095&vzoom=8.661316251971396); *id.*, Alpine County, CA, [https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=county&geoid=06003&tech=acfo&speed=25\\_3&vlat=38.6307432156797&vlon=-119.80783150000002&vzoom=9.181322142892743](https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=county&geoid=06003&tech=acfo&speed=25_3&vlat=38.6307432156797&vlon=-119.80783150000002&vzoom=9.181322142892743).

<sup>19</sup> Cal. Gov’t Code § 11549.54(e)(1).



More generally, Comcast does not provide open-access infrastructure within the meaning of the Ruling and SB 156. In Comcast’s experience, open access has never been a successful business model for broadband deployment in the United States, where decades of public policy have rightly promoted facilities-based deployment funded by private capital.<sup>20</sup> Consequently, Comcast is unaware of examples of commercially viable open-access infrastructure in California and lacks information regarding open-access network capacity or rates along the highway routes listed in Attachment 1.

Comcast does, however, provide backhaul, wholesale transport, and Ethernet dedicated services to various classes of enterprise customers, each at competitive rates. In Comcast’s

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<sup>20</sup> As Comcast noted earlier in this proceeding, open access networks have traditionally developed to bring competition to countries in which monopoly telecommunications networks were originally built and funded by the government. As a direct result of its more market-driven regulatory policies, the United States can point to higher speeds, more rapid infrastructure deployment, and higher levels of investment in its broadband networks than in other countries where broadband networks more frequently rely on open access to shared infrastructure. See, e.g., Wolfgang Briglauer et al., *Speeding Up the Internet: Regulation and Investment in the European Fiber Optic Infrastructure*, 62 INT’L J. INDUS. ORG. 613 t.3 (2018) (finding that fiber access regulation significantly reduces the number of homes passed by the incumbent operator’s fiber network); GSMA, *Wholesale Open Access Networks* (July 2017), [https://www.gsma.com/spectrum/wp-content/uploads/2017/07/GSMA\\_SWN-8-pager\\_R3\\_Web\\_Singles.pdf](https://www.gsma.com/spectrum/wp-content/uploads/2017/07/GSMA_SWN-8-pager_R3_Web_Singles.pdf) (explaining that “government mandated wholesale networks have been much slower to expand coverage, perform upgrades and to embrace new technologies such as 3G and 4G, and they can be expected to prompt less innovation than network competition” and describing less-than-successful attempts to build such mobile networks in five countries); Ian Verrender, *NBN Missed Almost Every Mark, But There Is a Chance For the Government to Avoid Total Failure*, ABC News (Aug. 16, 2020), <https://www.abc.net.au/news/2020-08-17/nbn-failure-infrastructure-project-government-shouldcop-loss/12563994> (describing the significant cost-overruns and delays to build a network that has not delivered expected increases in speeds); Christopher S. Yoo, *U.S. vs. European Broadband Deployment: What do the Data Say?*, Faculty Scholarship at Penn Law (June 3, 2014), [https://scholarship.law.upenn.edu/faculty\\_scholarship/1453](https://scholarship.law.upenn.edu/faculty_scholarship/1453) (finding that from 2007 to 2012 – a critical period for broadband network buildout – the average electronic communications sector investment per household in the United States was nearly double the amount spent in Europe). And more recent studies show that this investment gap has only widened as European utility regulation of broadband has continued, with U.S. ISPs now investing *three times more* per household than their European counterparts. One study finds that during the period 2012-2018 the average annual ISP investment per households was \$708 in the U.S. and \$230 in the EU. See USTelecom, *No Contest: U.S. Leads Europe in Broadband Deployment, Adoption, Investment and Competition* at 13 (April 2021), <https://www.ustelecom.org/no-contest-u-s-leads-europe-in-broadband-deployment>.

experience, many other commercial competitors provide similar services throughout large portions of California. It is notable in this regard that SB 156 directs the Commission to seek comment on “[t]he current locations, routes, availability, technical performance characteristics, and other aspects of *commercial sources of supply of middle-mile broadband network services*.”<sup>21</sup> While the Commission’s role in the development of the Middle-Mile Network is to recommend potential locations for *new* open-access middle-mile infrastructure to enable service to end-users in areas that lack connectivity, the Commission should take a broader view of the availability of existing middle-mile infrastructure. The fact that nearly all California households have access to robust fixed terrestrial broadband – and that high-speed mobile wireless service is almost ubiquitously available in most cities and towns – demonstrates that adequate middle-mile capacity is already commercially available in many areas, including virtually all major population centers. It would be inconsistent with SB 156 and federal law, as well as arbitrary and poor public policy, to ignore this robust, existing infrastructure on the grounds that it does not meet the Commission’s definition of open access.

**2. Priority Areas: Federal funding must be encumbered and spent in a limited time period. Additionally, unserved and underserved areas of the state are in substantial need of broadband infrastructure investment.**

- **Is it reasonable to assume counties with a disproportionately high number of unserved households (*e.g.*, 50% or more unserved at 100 Mbps download) are areas with insufficient middle-mile network access?**
- **What other indicators, if any, should the Commission use to identify priority statewide open-access middle-mile broadband network locations (*i.e.*, built expeditiously, areas with no known middle-mile network access, regions underserved by middle-mile networks, regions without sufficient capacity to meet future middle-mile needs)?**

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<sup>21</sup> Cal Gov’t Code § 11549.54(f)(1)(A) (emphasis added).

## COMCAST’S RESPONSE

Above all, the Commission should prioritize middle-mile deployments in unserved areas, where this funding will make the greatest difference in making broadband available to end-users. Installing new open-access middle-mile infrastructure in densely populated areas that already have broadband – and, in most cases, already have two or more fixed broadband options<sup>22</sup> – would be wasteful and leave behind rural and other unserved parts of California.

The proposed 100 Mbps downstream threshold – while a potential secondary metric to identify areas “without sufficient capacity to meet future middle-mile needs”<sup>23</sup> – is not an appropriate starting point for the Commission’s analysis. SB 156 unambiguously requires that “[i]n identifying priority statewide open-access middle-mile broadband network locations . . . the Commission *shall* prioritize locations that enable last-mile connections to residences *unserved by 25 mbps downstream and 3 mbps upstream.*”<sup>24</sup> The Commission does not have authority to rewrite this statutory mandate and must give first priority to areas unserved at 25/3 Mbps. Moreover, because the state is relying on Coronavirus Fiscal Recovery Funds to deploy the Middle-Mile Network, a 25/3 Mbps speed threshold is a federal requirement as well. Treasury’s rules for this funding require that such broadband infrastructure projects be “designed to provide service to unserved or underserved households and business,” defined as those that “are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of

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<sup>22</sup> See FCC Broadband Map, [https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=state&geoid=06&tech=acfosw&speed=25\\_3&vlat=37.41896076143145&vlon=-119.30660699999999&vzoom=4.487423858069947](https://broadbandmap.fcc.gov/#/area-summary?version=jun2020&type=state&geoid=06&tech=acfosw&speed=25_3&vlat=37.41896076143145&vlon=-119.30660699999999&vzoom=4.487423858069947) (showing that 85 percent of California households have access to two or more providers of fixed terrestrial broadband at 25/3 Mbps and 69 percent of households have access to two or more providers of 100/10 Mbps as of June 2020).

<sup>23</sup> Ruling at 5.

<sup>24</sup> Cal. Gov’t Code § 11549.54(d) (emphasis added).



upload speed.”<sup>25</sup> Use of these funds for duplicative middle-mile infrastructure in predominantly served areas would conflict with federal law and regulations, jeopardizing California’s ability to benefit from these historic investments.

Accordingly, Comcast recommends a tiered approach whereby truly unserved communities—at a much more granular level than *county-level*, as discussed below—receive first priority for Middle-Mile Network routes (e.g., those where more than 50 percent of households lack access to 25/3 Mbps). After those projects are completed, or at least after funding is in place and construction is underway, the Commission might consider a second tier of Middle-Mile Network routes through communities where relatively fewer households lack access to 25/3 Mbps. Only then should the Commission consider a secondary speed threshold such as 100 Mbps downstream to identify additional communities that might benefit from additional capacity on the Middle-Mile Network, and the Commission should take a similar tiered approach to identifying those locations as well.

A tiered approach with reserves for contingencies also would help ensure successful completion of middle-mile networks in unserved areas, which tend to be remote, high-cost areas with significant deployment challenges. Based on past experience with middle-mile projects funded by CASF, proposals for construction in these areas may underestimate the cost of deployment and end up failing altogether due to a lack of available funds. In 2017, for example, the Commission approved nearly \$47 million in CASF funds for Inyo Networks to construct the Digital 299 Broadband Project, which would have provided high-capacity backhaul infrastructure and interconnection points to communities along California State Route 299 through portions of Shasta, Trinity, and Humboldt counties. This project promised to connect 307 underserved

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<sup>25</sup> See 31 C.F.R. §§ 35.3, 35.6(e)(2).

households to symmetrical gigabit Internet services, with as many as 102 schools, colleges, hospitals, and other anchor institutions also able to take advantage of such connections.<sup>26</sup> But according to the Commission’s 2020 CASF Annual Report, the Digital 299 project has now been terminated “due to funding difficulties.”<sup>27</sup> It is not yet clear how much of the \$3.25 billion set aside for Middle-Mile Network routes will be needed to connect the most unserved areas of California, but completion of those projects should come first before funds are allocated to increasing middle-mile capacity in other areas with lesser need.

In addition, the Ruling’s proposal to measure unserved households at the county level is overbroad and not the most effective way to identify middle-mile routes through truly unserved areas. Attachment 1 identifies nine California counties (Alpine, Amador, Colusa, Mariposa, Modoc, Plumas, Shasta, Tehama, and Trinity) where more than 50 percent of households lack access to broadband at 100 Mbps downstream. But within those counties, access to broadband can vary greatly across various cities, towns, and rural areas, as reflected on the Commission’s map of highway routes when overlaid with broadband availability. It would not be equitable or a wise use of resources to prioritize middle-mile routes through cities and towns in those nine counties that have some level of existing broadband service before funding middle-mile routes through truly unserved areas in other counties. A smaller geographic unit of measurement such as cities and census designated places (“CDPs”),<sup>28</sup> census tracts, or census blocks would pinpoint

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<sup>26</sup> See Resolution T-17548: Approval of Funding For the Grant Application of Inyo Networks, Inc. (U-7159C) From the California Advanced Services Fund, at 1 (March 23, 2017).

<sup>27</sup> California Advanced Services Fund, 2020 Annual Report at 18 (April 2021), <https://www.cpuc.ca.gov/-/media/cpuc-website/industries-and-topics/reports/2020-casf-annual-report.pdf>

<sup>28</sup> Notably, the Commission recently released an analysis of households unserved at 100 Mbps downstream at the city and CDP level in the “digital redlining” phase of this proceeding. See Assigned Administrative Law Judge’s Ruling, R.20-09-001 at 4-5 (May 28, 2021) (including a table with “summary information on the percent of each city and [CDP] in the state with a fixed broadband Internet service provider (ISP) claiming to offer service at 100 Mbps per second or greater”). Because the

more accurately within these and other California counties where there truly are large percentages of unserved households. Middle-Mile Network routes should be prioritized to enable new last-mile deployments in these more targeted unserved areas rather than throughout particular counties where broadband infrastructure may already be available.

### **III. CONCLUSION**

California's allocation of \$3.25 billion to the Middle-Mile Network is a historic investment with the potential to advance the state's laudable goal of providing its residents universal access to broadband – but only if these funds are spent wisely. Consistent with state law and Treasury requirements, the Commission should focus this proceeding on identifying priority routes for the Middle-Mile Network that maximize the potential for last-mile deployment in areas that lack access to 25/3 Mbps service. Accordingly, the Commission should modify proposals in the Ruling and Attachment 1 highway route map that appear to prioritize routes through major population centers and would result in duplicative middle-mile infrastructure in areas that already have high-quality broadband. Given its limited role in implementing the Middle-Mile Network, the Commission should work collaboratively with the Office and Administrator to plan a network that will result in the greatest benefit to *unserved* households and businesses. Comcast looks forward to continued participation in these important decisions for the future of broadband in California.

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Commission already has this data set, use of cities and CDPs to prioritize unserved areas in this phase of the proceeding would not appear to create any new administrative burden and may be more efficient than creating a new set of data at the county level.

Respectfully submitted,

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*For Comcast Phone of California, LLC*

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