

**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 No. 20-09-001

**BORREGO SPRINGS INFRASTRUCTURE SUBCOMMITTEE
(BORREGO SPRINGS REVITALIZATION COMMITTEE)**

**RESPONSE COMMENTS TO ADMINISTRATIVE LAW JUDGES EMAIL RULING
(R.20-09-001) Ordering Additional Comments as part of middle-mile data collection**

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(BORREGO SPRINGS REVITALIZATION COMMITTEE)**

Pursuant to Rule 1.4 of the Commission's Rules of Practice and Procedure, the Infrastructure Subcommittee of the Borrego Springs Revitalization Committee, has requested party status in the above referenced Broadband Infrastructure Deployment Rulemaking No. 20-09-001. These comments are respectfully filed with the CPUC as RESPONSE COMMENTS TO ADMINISTRATIVE LAW JUDGES EMAIL RULING (R.20-09-001) Ordering Additional Comments as part of middle-mile data collection.

A. INTRODUCTION

Borrego Springs and other nearby backcountry, unincorporated and tribal communities including Ocotillo Wells, Shelter Valley, Ranchita, Warner Springs, as well as tribal lands of Los Coyotes and Santa Ysabel tribes are typical unserved and underserved areas in California.

These communities are the gateway to numerous State Parks and tourist visitation areas, have a sizable senior community, a majority of low-income residents, and a population of school-aged children who all struggle with internet service that is at best, inadequate and unreliable, and in some areas, unavailable.

In 2019, civic leaders in the Borrego Springs community came together to form the Borrego Springs Revitalization Committee, in consultation with County of San Diego Supervisor Jim Desmond, County of San Diego staff, and other stakeholders, to advocate for resources to address community needs. The Borrego Springs Revitalization Committee formed several subcommittees – notably, the Infrastructure Subcommittee.

The Borrego Springs Revitalization Committee’s Infrastructure Subcommittee has been established to address the needs of capital infrastructure like roadways and utilities. As a subcommittee to the Borrego Springs Revitalization Committee, the Infrastructure Subcommittee is particularly interested in ensuring that appropriate and adequate broadband investment be considered for the Borrego Springs community and other nearby rural communities.

The Borrego Springs Revitalization Infrastructure subcommittee has reached out to a large number of long-time residents and members of the community and requested them to provide their experience with internet access in Borrego Springs. We have collected survey responses from over 80 local residents. We have completed a preliminary analysis of the responses received and are in a position to provide comments to the CPUC that will be helpful in addressing the problems in underserved and unserved rural areas where incumbent ISPs:

- a. Decline to invest in upgrading their deteriorating plant,
- b. Decline to accept new broadband customers, rather than upgrade their facilities to deliver reliable, high quality broadband, and
- c. Provide unresponsive customer service.

B. RESPONSE COMMENTS TO ADMINISTRATIVE LAW JUDGES EMAIL RULING (R.20-09-001) Ordering Additional Comments as part of middle-mile data collection

1. Open-Access: As described in more detail in the Order Instituting Rulemaking that initiated this proceeding, the Commission has regulatory authority telecommunications service providers.

- How can the Commission use its regulatory authority to assure durable and enforceable open-access and affordability requirements in perpetuity?

In 2018, San Diego County dedicated a new library building in Borrego Springs which serves as a community hub. Throughout the pandemic, residents and school students could be seen utilizing the back porch of the library to do work and homework sometimes when the temperature was 100 degrees in the shade.

The Borrego Springs Unified School District (BSUSD) was able to provide students with Chromebooks to take home for online learning. Although many homes in Borrego Springs have

an internet connection it is very unreliable with frequent outages and the bandwidth is insufficient for online class attendance by multiple students.

In the community of Ocotillo Wells, throughout the pandemic BSUSD generously parked a school bus with a 4G hotspot in the middle of the community. A single 4G connection was being shared by over a dozen student learners to attend school through the pandemic!

Both the Library and BSUSD are connected via CENIC-provided microwave links to a tower on Toro Peak. Federal rules preclude the use of these 622 Mbps links to anchor institutions at the center of Borrego Springs to be used as “middle mile” to provide broadband connectivity to homes.

We request that the CPUC study and revisit rules that preclude the use of available middle mile links to rural, backcountry areas to deliver broadband to residents in the community.

- Should the Commission adopt a tariffing requirement for open-access networks?
- In October 2020, the Federal Communications Commission (FCC) eliminated a number of network unbundling and resale requirements placed on Incumbent Local Exchange Carriers, including requirements for DS1 and DS3 loops, and dark fiber transport provisioned from wire centers within a half-mile of competitive fiber networks. (See *In the Matter of Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, WC Docket No. 19-308, FCC 20-152) How will this impact Competitive Local Exchange Carriers in California that currently utilize these services to provide telecommunications services, including last-mile broadband Internet access service?

Telecommunications service to Borrego Springs and the other communities is provided by the national telecommunications provider AT&T and a cable service provider Zito. There is also 4G service available from three wireless service providers (AT&T, Verizon and T-Mobile) around the region, although coverage is spotty and many homes are unserved.

We do not have information about the bandwidth, quality or the location of middle mile segments used by any of these wireless and wired service providers. We are aware that in 2018 USA Communications, a predecessor of Zito, deployed middle mile fiber to Borrego Springs via a route along State Route 78 to State Route 86 in Imperial County.

We request the CPUC to:

- a. Obtain from all Telecommunications Providers that serve rural and backcountry areas, the deployed middle mile segments and unused bandwidth or dark fiber available on these segments.

b. Where there is large amounts of unused bandwidth or dark fiber available on middle mile segments owned by Telecommunications Providers in rural and backcountry areas, and there are unserved or underserved residents, require that the middle mile bandwidth or dark fiber be made available for lease to ISPs at competitive rates.

c. Include underserved, northeast portions of San Diego County in the state-wide investment in open access middle mile fiber deployment in partnership with Caltrans. Where appropriate, in addition to state highways also include county highways in rural and backcountry portions of the state, in particular S1, S3, and S22 as potential locations of open access middle mile segments.

c. Establish a CPUC online publication of current lease rates and tariffs for available middle mile bandwidth or dark fiber to rural and backcountry areas. This resource must list both private middle mile availability as well as any newly deployed middle mile deployed under new state funding.

2. Additional Factors to Consider: What additional criteria should the Staff Report take into consideration and to what extent, including, but not limited to:

- Affordability;
- Redlining;
- Route redundancy;
- Competition;
- Hardening, undergrounding, deployment in high fire threat areas;
- Cell coverage; and
- Labor and economic development benefits.

We agree that all these criteria must be taken into consideration by the CPUC. Of particular interest to our communities, consisting of low-income households, school children and fixed-income seniors are the two criteria of

a. Affordability and

b. Reliability and Resilience.

It is our view that an Open Access Middle Mile that encourages multiple, competing last mile providers (ISPs) in rural and backcountry communities is the surest way of ensuring the availability of affordable and reliable high-quality broadband to residents.

3. Middle-Mile Network Services for ISPs: The statute mandates that the State of California take into consideration

various aspects that will increase the attractiveness and usefulness of the statewide open-access middle-mile broadband network for commercial internet service providers.

- What specific locations, routes, interconnection points, regeneration points, and tie-ins should the Commission consider in order to increase the attractiveness and usefulness of the statewide open-access middle-mile broadband network for commercial internet service providers?
- How can existing interconnection points or the creation of new interconnection points improve access for communities?
- What technical performance characteristics will increase the attractiveness and usefulness of the statewide open-access middle-mile broadband network for commercial internet service providers?
- What network design and other design, technical, business, and operational considerations will increase the attractiveness and usefulness of the statewide open-access middle-mile broadband network for commercial Internet service providers?
- What services should the network provide commercial providers (e.g., dark fiber, lit fiber, colocation, wireless backhaul, etc.)?
- If the network offers dark fiber, how many strands of dark fiber should the network make available on each route? What should the lease terms be?

Through the build out of the Open Access Middle Mile network and through the use of its Telecommunications Provider regulatory authority to publish tariffs for leasing unused middle mile segments owned by private Telecommunications Providers, the CPUC can enable multiple competing last mile providers (ISPs) in rural and backcountry communities. Competition among last mile broadband providers is the surest way of ensuring availability of *affordable* and *reliable* broadband to underserved residents.

4. Middle Mile Network Services for Consumers

- The middle mile network must prioritize connections to anchor institutions that lack sufficient high-bandwidth connections. Should the statewide middle mile network provide direct service to anchor institutions?
- Should the middle-mile network directly provide broadband Internet access service, voice service, etc.?
- The Commission's 72-hour backup power requirements apply to all facilities-based wireline and wireless communications service providers that provide service in Tier 2 and Tier 3 High Fire Threat Districts. Should the Commission consider additional requirements?

Delivering reliable, high-quality broadband to anchor institutions including libraries, schools, healthcare and public safety is an obligation of the state. Where private providers cannot be required or encouraged to deliver 1 Gbps or better to anchor institutions, the state must step in and deliver this required high bandwidth link.

Moreover, for best utilization of limited public investment dollars, *the CPUC should revisit the regulations that preclude the use of these high bandwidth links to anchor institutions to provide broadband service to households in these underserved and unserved rural and backcountry areas.*

5. Last-Mile Providers: The middle-mile network must enable last-mile connections.

- How can the middle-mile network enable last mile connections in unserved, underserved and served areas of the state?
- How can the middle mile network assist the operation and development of public broadband networks? Are there opportunities to aggregate network monitoring, provide a managed voice service, security services, call center, and other back-office services among public networks?

By establishing a marketplace of current lease rates and tariffs for available middle mile bandwidth and dark fiber to rural and backcountry areas, the CPUC can establish the conditions for competitive last mile ISPs.

There are numerous local cooperative non-profit ISPs operating in California and throughout the nation. Connect Anza, just north of our region in southern Riverside County is a successful cooperative ISP delivering fiber to the home at \$49/month for 100 Mbps full duplex. *The CPUC*

can establish a clearinghouse of best practices and eliminate legal hurdles for cooperative non-profit ISPs.

To assist local communities such as ours, where private ISPs do not choose invest in upgrading their plant, the path can be paved for *new* or *existing cooperative* non-profits to enter the market.

6. Other States: Numerous other states operate open-access networks, including but not limited to Illinois, Kentucky, Massachusetts, Michigan, Missouri, North Carolina, Ohio, Virginia, and Washington.

- Are there any successes or pitfalls the State of California should take into consideration from other statewide open-access networks or even from other countries?

There are numerous local cooperative non-profit ISPs operating in California and throughout the nation. Connect Anza, just north of our region in southern Riverside County is a successful cooperative ISP delivering fiber to the home at \$49/month for 100 Mbps full duplex. The CPUC can establish a clearinghouse of best practices and eliminate legal hurdles for cooperative non-profit ISPs.

To assist local communities such as ours, where private ISPs do not choose invest in upgrading their plant, the path can be paved for *new* or *existing cooperative* non-profits to enter the market.

7. Other Issues Not Covered

- Are there any issues the State of California should take into consideration as it develops the statewide middle mile network?

The CPUC lacks information about deployed middle mile in the state of California. There are many unserved and underserved areas of the state where middle mile segments that are owned by ISPs are underutilized. *Private owners of these middle mile segments prefer to leave their deployed middle mile unused even while choosing to not invest in deploying or upgrading their last mile networks.*

We request the CPUC to:

- a. Obtain from all Telecommunications Providers serving rural and backcountry areas, the deployed middle mile segments and unused bandwidth available on these segments.
- b. Where there is large amounts of unused bandwidth available on middle mile segments owned by Telecommunications Providers to rural and backcountry areas, and there are

unserved or underserved residents, require that the middle mile bandwidth be made available for lease to ISPs at competitive rates.

c. Establish a CPUC online publication of current lease rates and tariffs for available middle mile bandwidth to rural and backcountry areas. This resource must list both private middle mile availability as well as any newly deployed middle mile deployed under new state funding.

Through the build out of the Open Access Middle Mile network and through the use of its Telecommunications Provider regulatory authority to publish tariffs for leasing unused middle mile segments owned by private Telecommunications Providers, the CPUC can enable multiple competing last mile providers (ISPs) in rural and backcountry communities. *Competition among last mile broadband providers is the surest way of ensuring availability of affordable and reliable broadband to underserved residents.*

C. COMMUNITY SURVEY RESPONSES FROM BORREGO SPRINGS RESIDENTS

The Borrego Springs Revitalization Infrastructure subcommittee has reached out to a large number of long-time residents and members of the community and requested them to provide their experience with internet access in Borrego Springs. Over 80% of the population has Zito as their service providers while less than 10% have AT&T or a satellite provider – Hughes or ViaSat.

Most of the service complaints are about Zito service because *AT&T does not provide upgrades to existing customers and declines to accept new customers for broadband.*

In our analysis, the lack of strong regulation and lack of competition results in

- a. lack of availability of high-quality broadband, inadequate for education, employment and business,
- b. *very unreliable service*, outages that can last for hours to days,
- c. *lack of investment to upgrade the deployed infrastructure* by the two fixed providers, AT&T and Zito..
- d. *unresponsive customer service.*

Below we document the feedback obtained from 13 residents of Borrego Springs and a local non-profit that provides educational and recreational services to the community.

Resident 1:

From 2015 to fall of 2019 we had relatively stable service from Zito at 590 Pointing Rock in DeAnza. This means occasional complete loss of service, sometimes signal drops that made work online impossible. In the fall of 2019 we were without consistent service for six weeks or more. In that time we were denied a service call because a "tech panel" had to review our

complaints and then determine whether we deserved a tech visit. I had to go to the library porch to keep up with two ZOOM classes.

All of the wiring inside our house and exterior was replaced. The modem was also replaced. We heard a litany of explanations for our dropped signal, also simply we don't know why. Several tech visits were cancelled without informing us. Every call to Zito required explaining the now weeks long drop in signal numerous times, mostly with the call center staffer not understanding why and unable to offer strategies for resolution. Finally a local Zito tech said the signal was getting to the box just across the road at the Borings but was not getting through the conduit & wiring, old and defective, underneath the road. He further said Zito had no intention of replacing this or other sections of defective wiring. Given this unbelievable behavior as well as reports of regular service interruption from other Zito subscribers, we will never return to them as a provider.

Then we switched to Camtech, got a quick setup visit and used it throughout December of 2020 till we came east late May 2021. The only times we lost service, perhaps twice in that period, were because of AT&T issues--Camtech uses their towers and installed an antenna on our roof, inobtrusive.

Last month Camtech informed Borrego users that their contract with AT&T was not renewed and service was ending, hopefully to resume when Camtech got their own equipment in Borrego. Subsequently we were informed that this had been ordered and Camtech hoped to install it and resume service sometime in October. No further communication from Camtech.

Resident 2:

I signed up for ATT DSL when I opened my office in the Mall in 2006. I have had it since then, in my office. I have never used Zito nor USA Communications because of it's reputation.

I tried to setup an office in the Mall for one of my clients in Sept 2014 and found out they no longer set up ATT DSL so they had to use USA instead. I'm not sure when they stopped before that time.

I have Dish Network Via Sat at home in De Anza for internet and it is reliable but not so fast. I don't have a lot of bandwidth since I have DSL at my office I do big file emailing from there.

For almost 3 weeks my DSL was down in my office this summer they said it was not just me and they were waiting for a part. I used my home computer during that time for internet and email. Lucky that I had a reliable option.

Resident 3:

Zito Media – I am a personal and business internet-only customer. My interactions whenever service is down is to text for status. I get an immediate automatic response (within a minute) and then an hour or longer response to the status of service “We are currently experiencing a service outage in your area. Our technicians have been dispatched and are working to have services restored as soon as possible. Thank you for your patience.” When Zito Media took over from USA Communications, I had to drop the telephone service since Zito does not have enough

bandwidth to service fire alarm which needs dependable constant service. Zito internet service for business and home locations have not been bad. Yes, it's embarrassing when it goes down and we have a group staying that does need internet for research. However, compared to most UCNRS field stations, we have it good.

AT&T – Business customer for landline only. However, I do have personal information regarding their DSL and Uverse service. DSL came into existence to Borrego Springs for business and residential located along and close to Palm Canyon Dr. in 2004 (maybe 2003). I worked at a local real estate company at The Mall when an AT&T technician and personal neighbor informed me of such service (was using dial-up). The service also went from circle south on Borrego Springs Road to intersection of Tilting T (friend of mine lived in one of the rentals and had DSL service). The NAPA Store on Sitrup Rd also had DSL internet (still does to this date). Any one who signed up and continues to use DSL, they still have it but with the understanding AT&T does not service that program. If it breaks, AT&T won't repair. However, I have heard that if a change of ownership to say, a home in RRC, wants to continue DSL, the new owner can have it. (very small print).

When my husband and I expanded our NAPA Store empire to Julian in 2010, I found out about Uverse. More reliable service and NEW and more economical than any other internet provider! I wanted to expand it to our home and business in Borrego Springs. NOPE. AT&T's Uverse only serviced Julian and Warner Springs areas. Borrego Springs is a no go. That's when I found out about how AT&T wasn't servicing or allowing more DSL customers. DSL requires its own phone line when Uverse is a fixed port (not a phone line). Uverse is more dependable than any other internet provider. Really wished that option was available.

Resident 4:

We have service from Zito and pay for a combined internet and cable service (now being all streamed) approximately \$150 a month. For this amount, I feel we should be provided with a reliable service. We have not received the type of service I would expect from a company that advertises to provide good service. We have consistently had times when internet has gone down, sometimes for short intervals, other times for much longer time periods. The prior two weeks before September 4 we lost internet consistently in the late afternoon for periods of up to 15 minutes to a half hour. On September 4, we did not have internet from noon to late evening, on September 5, we had no internet all day, it was back upon the 6th, and on September 7th, no internet in the afternoon and down until we retired for the evening, the next morning there was no internet early in the morning. We did get it back at 7:30 a.m. While internet is one loss, because we now must stream for television as well, we also have that loss when the internet goes down.

There is a local Zito office in town. I went in to prior to the weekend of September 4 to let them know we had been losing internet periodically during the last two weeks. I was told that I could not put in a trouble call in the office, I had to call the Zito number to report it. I did call on September 4 after the loss of the internet, and was on hold for 32 minutes before I was able to speak with anyone. I was informed that there was a statewide problem and that expected time

for recovery of the internet would be the next day. I said that because we have had loss of service, it would be good if the company provided an adjustment to our bill for all the down time. I was told that once this large problem was corrected, that a team would get together and decide about doing that. I spoke with a person who was located in Pennsylvania where Zito has headquarters. Having someone locally to speak to would provide more accurate information.

Many times during the day at peak usage times, we consistently get buffering while watching TV. The infrastructure that is currently in place is not sufficient to provide what is required by the community.

I have spoke to several town folks who have been unhappy with the service provided by Zito. One mentioned that they pay a price for 100 percent service, but only receive about 25 percent.

Resident 6:

While reliability has improved, still not great, a risk and interference in staying employed this last year.

Resident 7:

Viasat and Hugues no longer deliver the fastest Internet in Borrego but are fairly reliable. Zito deliver decent speed nowadays but is inconsistent in its delivery, has outages is outlying areas. A.T&T is a sham outside of downtown Borrego and is « abusing » some of our elder residents by delivering .5 to 3 Mbps at regular broadband prices. Thanks for asking

Resident 8:

Unreliable

Resident 9:

It's unreliable

Resident 10:

Have a mobile device for reliable high speed, low latency service.
Had a remote work, but the home internet was inadequate for CAD, GIS and other applications.

Resident 11:

Impossible to get a live person for customer support

Resident 12:

Only thing available where I live

Resident 13:

The Hughes Net service is good but very expensive and for the amount I'm paying monthly I still have variable speeds and sometimes it is too slow to stream certain channels.

Resident 14:

We have Zito at home (on Broken Arrow Road in Borrego Springs), and it's all we have, so we don't have a comparison, except for the ATT I have at the office.

Zito service varies considerably. Sometimes it is perfectly fine, as it is now.

During the height of the pandemic when everyone including school children were at home and online, it was extremely variable. During that time, Manfred was teaching fulltime online for IVC and often had to leave home to go over to the Imperial Valley, because the internet went off and on so much that it was unreliable for his work. During that period, but other times as well, we are unable to watch movies on Prime for example, or the movies come in and out depending on the internet.

Resident 15:

As remote workers reliant on the internet in Borrego Springs, we are terribly disappointed with the ongoing spotty and irregular service, regular downed internet, and non-responsive local and national internet provider service team overall.

While we are well aware of alternative means to connect to the internet, competitive carriers that is, we too have heard of lackluster service overall even from these other players. So we have not opted to switch providers.

We are not at all concerned with television cable or the likes, merely (WIFI) internet and a responsive cell site for telephone calls, especially in the event of an emergency.

Additional concerns are for local school children, who these days rely on an internet connection for schooling, as was the case since 2019 COVID-19 struck and schools shut down. Lastly, from an economic development perspective, it seems critical that local hospitality AND businesses can provide and utilize reliable internet as well. It's unacceptable any longer for a town of this size to have unreliable and undependable internet in the modern age, even though we do appreciate what we do have, the strides that have been made over the years; we know it can be better and should be.

Local Business/Non-Profit:

ABDNHA offers lectures about the desert environment in our library; it is one of the key services we offer as a non-profit. Since the pandemic struck those have all become webinars. As conditions improve we want to offer hybrid programs, a live lecture for a group in our library, while also offering that program as a webinar for people further away as well as people who do not want to attend the indoors program. Unfortunately our current internet service with ATT is not adequate to do that. We have offered a few webinars in which the presenter spoke from our library and our internet service has not been nearly robust enough to do that. The video portion breaks down, the voice portion is often garbled, and if the presenter has any video clips to show, as many do, it simply does not work because the quality is so poor.

D. CONCLUSIONS

Borrego Springs and other nearby backcountry, unincorporated and tribal communities including Ocotillo Wells, Shelter Valley, Ranchita, Warner Springs, as well as tribal lands of Los Coyotes and Santa Ysabel tribes are typical of unserved and underserved areas in California.

These communities are the gateway to numerous State Parks and tourist visitation, have a sizable senior community, a majority of low-income residents, and a population of school-going students, all struggling with internet service that is at best inadequate and unreliable, and in some areas, unavailable.

The Borrego Springs Infrastructure Committee – Infrastructure Subcommittee is filing for party status on Rulemaking 20-09-001, representing the interests of these communities in the northeastern portion of San Diego County.

These Response Comments are submitted in response to the ADMINISTRATIVE LAW JUDGE’S EMAIL RULING (R.20-09-001) of September 9, 12021 Ordering Additional Comments as part of middle-mile data collection.

Respectfully submitted,

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