

**BEFORE THE
CALIFORNIA PUBLIC UTILITIES COMMISSION**

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

Rulemaking No. 20-09-001

**REPLY COMMENTS OF CALIFORNIA INTERNET, L.P. (U-7326-C) DBA GEOLINKS ON
EMAIL RULING ORDERING ADDITIONAL COMMENTS AS PART OF MIDDLE-MILE
DATA COLLECTION**

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California Internet, L.P. (U-7326-C) dba GeoLinks (“GeoLinks” or the “Company”) respectfully submits these replies to comments on the Email Ruling issued in the above-captioned proceeding on September 9, 2021 (“Ruling”).

I. INTRODUCTION

GeoLinks is committed to broadband deployment efforts that seek to close the digital divide in California and beyond. As the largest Connect America Fund Phase II (“CAF II”) auction winner in California and a provisional winner of Rural Digital Opportunity Funding (“RDOF”), GeoLinks has committed to provide highspeed broadband service in areas where, absent subsidy funding, highspeed broadband might never become available. The Company applauds the Commission’s work to implement the requirements of Senate Bill (“SB”) 156 and the creation of a statewide open-access middle mile network (“Statewide Network”). GeoLinks submits these replies to comments on the Ruling to provide further input into the Commission’s role in developing the Statewide Network.

II. DISCUSSION

A. Open Access

In the Ruling, the ALJ asks how the Commission can “use its regulatory authority to assure durable and enforceable open-access and affordability requirements in perpetuity?” Several Commenters agree with GeoLinks that the Commission should not rely solely on its regulatory authority to ensure the Statewide Network meets certain requirements.

As an initial matter, the Commission’s authority is limited with respect to providers of middle-mile services. While the State may choose to require middle-mile providers to adhere to certain requirements in order to have their networks be considered part of the Statewide Network, the mechanism by which these providers should be bound to such requirements should be rooted in contract law, not regulatory authority and process. As GeoLinks explained in its opening comments to the Ruling, for segments of the Statewide Network that the State does not own but includes in the Statewide Network (i.e. existing middle-mile), the State can contractually require adherence to the same open-access requirements as the rest of the network (i.e. newly constructed portions). If middle-mile providers are contractually obligated to meet certain requirements and fail, the State will have recourse through the courts.

CENIC agrees and explains that “the statute already provides sufficient controls for the California Department of Technology (“CDT”), and therefore the Third-Party Administrator (“TPA”), to contractually enforce and achieve the protections for attractiveness and usefulness that the Commission may otherwise attempt through a duplicative regulatory construct” and that such “contractual protections, based on a legislative mandate for open access, will be more advantageous and offer quicker routes to achieving the Legislature's intended goals with the passage of the statute.”¹ Moreover, CENIC “encourages the Commission to avoid any desire to

¹ Opening Comments of the Corporation for Education Network Initiatives in California (“CENIC

institute regulatory constraints that could have a chilling or delaying effect on the program prior to it getting off the ground.”²

Regarding the Ruling’s question whether the Commission should adopt tariffing requirements for open-access networks, GeoLinks maintains that tariffs are unnecessary if parties are contractually bound to certain rates/ rules. And the State can choose to make any rates/ rules it establishes public, as appropriate. Moreover, there is no role for the Commission to establish a tariffing requirement under SB 156. As CCTA explains, “SB 156 contemplates no role for the Commission in ‘assuring’ open access and affordability requirements because those issues are to be addressed by the [Office of Broadband and Digital Literacy] and [third-party administrator].”³ Indeed, CTIA sums up the issue by explaining that “this is not the proceeding to discuss the presence (or absence) of Commission jurisdiction over private networks.”⁴ Even the Public Advocates Office, which supports a tariffing requirement, explains that tariffs are sheets that a *utility* must file.⁵ Broadband service providers are not utilities. Therefore, in addition to tariffs not being necessary with appropriate contractual provisions in place, it is not appropriate for a statewide *broadband* middle-mile network.

B. Middle-Mile Network Services for Consumers

As stated in its opening comments, GeoLinks agrees with the Ruling that “the middle mile network must prioritize connections to anchor institutions that lack sufficient high-bandwidth connections.” However, GeoLinks does not believe that the way to do this is to have the Statewide Network provide direct service to anchor institutions (broadband and/ or Voice service). As US

Comments”), at 2.

² *Id.*

³ Opening Comments of CCTA at 3.

⁴ Opening Comments of CTIA, at 3-4.

⁵ Opening Comments of the Public Advocates Office (“PAO Comments”), at 4 (emphasis added).

Telecom asserts, “the Commission should be seeking to use its middle-mile facilities to partner with, not supplant, last-mile providers.”⁶ In addition, CENIC, which will not only serve as the TPA for the Statewide Network but has extensive experience running a middle-mile network explains that “should the middle-mile network scoop up all of the anchor institutions, it will become extremely challenging for the last-mile projects to be sustainable, let alone form in the first place.”⁷

ISPs have experience providing all aspects of broadband connections and are better suited to provide the actual service connections to anchors. Therefore, the Commission should focus on ways to encourage ISPs to connect anchor institutions via the Statewide Network.

C. Additional Factors to Consider

The Ruling asks “what additional criteria should the Staff Report take into consideration and to what extent?” As GeoLinks explained in its opening comments, GeoLinks does not believe that answers to all questions or discussion regarding all factors to consider can be done solely in the context of comments on the record.

While AT&T claims that “the record in this proceeding along with the data responses regarding existing networks will give the Commission a basis for making its recommendation in the Staff’s Report,”⁸ several commenters echo the same concerns as GeoLinks. For example, CENIC, which has been named the TPA, notes that it expects that “a series of roundtables with specific interest groups would be a very productive format in which to examine and work through other issues contemplated in the Ruling and others that have been raised during the public comments period.”⁹ In addition, SBUA suggests that the State Report should take into

⁶ Opening Comments of US Telecom, at 5.

⁷ Opening Comments of CENIC (“CENIC Comments”), at 6.

⁸ Opening Comments of AT&T, at 17.

⁹ CENIC Comments, at 7.

consideration “the importance of engaging community support and involvement, including community-based organizations (CBOs).”¹⁰ Moreover, Verizon notes that “the request for specific information on interconnection points, regeneration points, and tie-ins is premature” and explains that SB 156 is meant to place the gathering of information with the TPA “to aid in its designing of the network segments, as this type of information cannot possibly be gathered in the abstract.”¹¹

It is clear that a variety of stakeholders believe that additional fact gathering and coordination between a variety of parties, including the TPA itself, is necessary to ensure all necessary factors are considered in order to ensure a well-designed Statewide Network that works for all Californians. Therefore, instead of seeking the answers solely from comments, GeoLinks urges the Commission to hold a series of roundtable events administered by the TPA to discuss rules, requirements, etc. for the Statewide Network with various stakeholders.

D. Last-Mile Providers

The Ruling asks how the Statewide Network can enable last mile connections in unserved, underserved and served areas of the state. GeoLinks reiterates that ensuring that the Statewide Network is open to all technology types and allows for flexibility in the way that those technologies interconnect to the Statewide Network is the best way to enable ISPs to provide last-mile connections. Several commenters agree that to be successful, access to the Statewide Network must be technology neutral.¹² CforAT specifically warns that “the Commission should be wary of recommendations by incumbent providers which would have anti-competitive effects, and it should reject any recommendations that would make the middle-mile network less attractive to

¹⁰ Opening Comments of the Small Business Utility Advocates “(SBUA)”, at 5.

¹¹ Opening Comments of Verizon, at 4.

¹² See e.g. PAO Comments, at 11; Opening Comments of Central Coast Broadband Coalition (“CCBC Comments”), at 5; Opening Comments of the Center for Accessible Technology (“CforAT Comments”), at 5; and Opening Comments of Coachella Valley Association of Governments, at 6.

smaller providers and new entrants.”¹³ TURN explains that “robust usage of the state-owned middle mile network, by a variety of service providers and public entities, will enhance the value of the state-owned middle-mile network, to the benefit of all Californians.”¹⁴

In addition, GeoLinks urges the Commission and the TPA to ensure technology-neutral interconnection options (i.e. ability to connect aerial facilities to or near the Statewide Network, flexible interconnection options to accommodate different transmission needs, etc.) CCBC agrees, suggesting that the Statewide Network build to third party towers that wireless ISPs can connect to.¹⁵ GeoLinks agrees with these commenters and urges the Commission to take all steps necessary to ensure the Statewide Network is technology neutral and, indeed, open access.

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¹³ CforAT Comments, at 9

¹⁴ Opening Comments of the Utility Reform Network (“TURN”), at 2.

¹⁵ CCBC Comments, at 8.

III. CONCLUSION

GeoLinks applauds the Commission's work to implement the requirements of SB 156. For the foregoing reasons, GeoLinks urges the Commission to encourage the State to rely on contract law to ensure open access and affordability rules, rely on ISPs to provide service to anchor institutions in un and underserved areas, hold a series of roundtables administered by the TPA with various stakeholders to discuss specific aspects of how the Statewide Network should be designed and administered, and establish technology neutral rules for the Statewide Network that allow all technology types to interconnect.

Respectfully submitted,

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