

**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  
(Filed September 10, 2020)

**OPENING BRIEF OF RURAL COUNTY REPRESENTATIVES OF  
CALIFORNIA**

Tracy Rhine  
Legislative Advocate  
Rural County Representatives of California  
1215 K Street, Suite 1650, Sacramento, CA 95814  
Tel: (916) 447-4806  
E-mail: [trhine@rcrcnet.org](mailto:trhine@rcrcnet.org)

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**I. Introduction**

In accordance with Rule 13.11 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the Rural County Representatives of California (RCRC) submits and timely files this opening brief to the Order Instituting Rulemaking (OIR) 20-09-001 (“Rulemaking”).

**II. Background**

On behalf of the Rural County Representatives of California (RCRC), I am pleased to offer comments on Phase I issues per the Assigned Commissioners Scoping Memo and Ruling dated December 28, 2020. RCRC was granted party status via an oral ruling by the assigned Administrative Law Judge, Thomas J. Glegola, at a pre-hearing conference on November 11, 2020. RCRC is an association of thirty-seven rural California counties, and its Board of Directors is comprised of one elected supervisor from each of those member counties. Our member counties extend from the Oregon border in the north, to the Mexico border in the southeast, and from the Central Coast to the Eastern Sierra.

### III. Discussion

Rural and lower-income communities of California continue to grapple with the legacy effects of insufficient public and private infrastructure investment. As the COVID-19 pandemic embarks on its second year, few infrastructure disparities are more apparent than the inequitable deployment of high-speed broadband. Rural counties in particular have long been abandoned in the digital age, leaving businesses without the ability to compete online, children unable to utilize online resources, and communities without crucial communication tools. These communities are the very places that are most in need of emergency notification and information capabilities, evidenced by two-thirds of the 2020 wildfires, designated as Declared Disasters by the Federal Emergency Management Agency (FEMA), occurring in RCRC member counties<sup>1</sup>.

Federal and state efforts over the last decade have proven ineffective at closing the digital divide, with the glaring effects brought to the forefront with the current pandemic. A generation of school children throughout the United States are being left behind due to inadequate or nonexistent access to their only education platform. In California, low income, less educated, rural, Black and Latinx household internet subscriptions are up to twenty-five percent lower compared to all households,<sup>2</sup> impeding the ability of individuals to escape what has been historically unequal opportunities for success. It is imperative that the state urgently consider all innovative proposals, and act expeditiously to implement necessary action.

Pursuant to the scoping memo and related staff proposal, we have organized our responses to the questions posed in the staff proposal in order:

#### ***1. Definitions***

- ***Please provide comments on the definitions used in this proposal. Please also provide recommendations or modifications that should be considered to proposed definitions and explain why. What additional definitions are needed and why?***

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<sup>1</sup> Staff proposal, Appendix A

<sup>2</sup> Public Policy Institute of California, Just Facts: *California's Digital Divide*, March 2019, <https://www.ppic.org/publication/californias-digital-divide/>

The staff proposal incorporates four definitions, including the following: “Restore and rebuild – The replacement or repair of Investor Owned Utility facilities after a disaster.”<sup>3</sup> The term “disaster” is not explicitly defined in the proposal. However, in Section A. Pilot Program Requirements, it states:

*This proposal recommends an IOU Fiber Pilot Program in which electric IOUs must install fiber optic infrastructure and conduit as part of their service restoral and rebuild of communities devastated by the 2020 wildfires and potential 2021 wildfires. Appendix A identifies the list of 2020 wildfires in California designated as Declared Disasters by FEMA. **The rebuilding of infrastructure as a result of these wildfires is subject to this proposal.***<sup>4</sup>

Appendix A contains similar language:

*The following table lists 2020 Wildfires in California designated as Declared Disasters by the Federal Emergency Management Agency (FEMA). The rebuilding of utility infrastructure as a result of these fires is subject to this Staff Proposal.*

This language clearly states that infrastructure rebuilt as a result of the identified 2020 wildfires in Appendix A are subject to the provisions of the pilot program, however, it is not clear if this is the inclusive definition of disaster for the purposes of “restoral and rebuild.” Additionally, because the 2021 wildfires are unknown, though the evident intent is to apply the restoral and rebuild requirement to those future fires as well, it would be prudent to include a clause that clarifies that likewise FEMA designated wildfires that occur in 2021 will be subject to the requirements herein.

Although the staff proposal focuses on rebuilding facilities after wildfires, it appears that the CPUC contemplates applying proposal requirements to other types of disaster rebuild efforts, as evidenced by the following language included under the Section A. Pilot Program Requirements:

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<sup>3</sup> Staff proposal, Page 4

<sup>4</sup> Staff proposal, Page 5, **emphasis added**

*Requiring IOUs to include fiber and conduit infrastructure **when rebuilding after disasters, such as fires**, is an opportunity to provide fast, reliable, and future proof infrastructure to communities to enhance safety in future events.<sup>5</sup>*

RCRC suggests that the definition “disaster” not be limited to wildfire. Comparably destructive events, such as mudslides, earthquakes and floods require restoration of service and may provide similar opportunities for inclusion of fiber conduit. Application of the proposed rebuild requirements should not apply based on the type of disaster, but based on the severity of the disaster, such as a state or federal disaster designation.

## **2. Pilot Program Requirements**

- ***Should this proposal require that an IOU must install communications fiber even if it restores service with temporary infrastructure in Pilot eligible communities?***

The restoration of services with temporary infrastructure meets an immediate need but is not a rebuild of necessary infrastructure. In order to bring essential access to reliable broadband service to these areas, all projected rebuild of IOU infrastructure in eligible areas should be subject to the requirements of the staff proposal.

This requirement is even more crucial in communities currently served with antiquated telecommunication infrastructure, such as copper line DSL. With AT&T’s announcement that it will no longer offer DSL service, and has no plans to build upgraded infrastructure in areas that are without alternative offerings (such as fiber),<sup>6</sup> IOU installed conduit may be the only opportunity for these residents to have access to adequate broadband connectivity. Even in the case of destroyed infrastructure, AT&T has stated it would only consider installing fiber instead of copper if it did not delay restoral of service and is cost-effective.<sup>7</sup> This means that, without

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<sup>5</sup> Staff proposal, Page 6, **emphasis added**

<sup>6</sup> September 4, 2020 AT&T letter to CPUC

[https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About\\_Us/Organization/Commissioners/President\\_Batjer/lps/News/Batjer%20Letter%20Response%20to%20ATT%20re%20DSL%20Retirement%20200923.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About_Us/Organization/Commissioners/President_Batjer/lps/News/Batjer%20Letter%20Response%20to%20ATT%20re%20DSL%20Retirement%20200923.pdf)

<sup>7</sup> Opening Comments of AT&T on the OIR, page 6.

positive intervention, these areas are relegated to insufficient and neglected infrastructure for the foreseeable future.

### ***3. Pilot Communities and Responsible Utilities***

- ***Should the CPUC consider additional communities for this Pilot than those listed in Appendix A and potential 2021 wildfire communities?***

The community wildfire recovery process can be extensive and prolonged, depending on numerous variables, many outside the control of the local jurisdiction itself. The rebuild process can also provide an opportunity for improved services, such as underground facilities, which may require time-intensive planning before the commencement of construction. Therefore, the CPUC may want to consider some jurisdictions within prior years' FEMA Declared Disaster areas as eligible, dependent on the individual communities' stage of recovery. For instance, the Town of Paradise, which lost 90 % of its housing stock in the 2018 Camp Fire, has completed only 30 miles of conduit of the 200 miles planned over the next five years.<sup>8</sup> Although this is significant progress in the rebuild process, and the inclusion of conduit was made possible by the work of Pacific Gas & Electric and the Town of Paradise, this example illustrates that some jurisdictions outside of the 2020 wildfire definition of disaster may be able to benefit from the requirements of this proposal.

In addition, see comments under question 1 regarding expanded definition of “disaster.”

### ***4. Open Access and Accountability Measures***

- ***Should the CPUC request information in annual report from IOUs that could demonstrate open and non-discriminatory access?***

Open and non-discriminatory access to the conduit required by this proposal is integral to the long-term success of these mostly unserved and underserved communities. Therefore, we support the inclusion of appropriate data on the annual report that demonstrates that the leasing process is consistent with the requirements outlined.

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<sup>8</sup> Katie Simmons, Director of Disaster Recovery, Town of Paradise, California Economic Summit Presentation, December 2020.

- **Should the CPUC collect any other additional information via annual reports?**

Although it is beyond the immediate scope of this proposal, information on the last mile outcomes would be valuable in determining if the pilot program was successful in reaching the ultimate goal of providing affordable high-speed broadband service (at least 100 Mbps down) to locations within the disaster area. The CPUC should consider corresponding reporting requirements as part of the leasing process or another mechanism to determine program efficacy.

#### ***5. Pilot Funding and Lease Revenues***

- ***Are there other benefits to electric ratepayers that reside in the IOU service territory, but outside the Pilot communities? If so, what are they?***

As technology continues to evolve, and IOUs are required to meet increased climate-smart measures, the availability of reliable connectivity throughout the IOU service territory could save ratepayers the additional investment in the future.

#### ***6. Additional Question(s): Potential Societal Benefits of Pilot Program***

- ***What benefits, health and safety, economic or otherwise, would this proposal have for the Pilot communities?***

Nearly 400,000 Californian households lack even dial-up connection speeds, nearly all of those in rural areas of the state.<sup>9</sup> These are the same regions that consistently bear the brunt of natural disasters, such as wildfire, and man-made adversities such as Public Safety Power Shutoffs. It is imperative that these communities in particular have access to reliable means of communication, including internet connectivity.

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<sup>9</sup> Page 11, CPUC 2019 Annual Report California Advanced Services Fund  
[https://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Utilities\\_and\\_Industries/Communications\\_and\\_Telecommunications\\_and\\_Broadband/2019%20Annual%20Report%20California%20Advanced%20Services%20Fund%202.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Communications_and_Telecommunications_and_Broadband/2019%20Annual%20Report%20California%20Advanced%20Services%20Fund%202.pdf)

The social and economic benefits of reliable broadband access have been well documented, particularly in the age of stay-at-home orders and distance learning. The vestiges of digital redlining have stifled economic growth and denied community innovation. Broadband is necessary for nearly every aspect of daily life, from career requirements and education, to banking and healthcare. The benefits of an open access network that provides reliable and affordable high-speed connection cannot be overstated.

#### **IV. Conclusion**

RCRC appreciates your consideration and respectfully requests your acceptance of RCRC's comments for filing.

Dated: February 1, 2021

Respectfully submitted,

/s/ Tracy Rhine

Tracy Rhine

Legislative Advocate

Rural County Representatives of California

Tel: (916) 447-4806

E-mail: [trhine@rcrcnet.org](mailto:trhine@rcrcnet.org)