



July 7, 2017

The Honorable Ben Hueso
Chair, Senate Energy, Utilities and Communications Committee
State Capitol, Room 4140
Sacramento, California 95814

Subject: OPPOSITION to AB 1665 (Garcia) – The Internet For All Now Act

Dear Senator Hueso,

As CEO of Inyo Networks, I write to strongly “Oppose” AB 1665, the Internet For All Now Act.

Inyo Networks (Inyo) has been a strong advocate for the growth and adoption of high-speed broadband services to improve quality of life and promote economic development. These goals not only are vital for California’s urban residents, but they have equal importance to California’s rural population who are critically dependent on the Internet in today’s information society. Access to affordable, robust and dependable broadband is no longer a luxury. It is core infrastructure that has become central to our social integration and is rapidly becoming indispensable for all Californians if they are to fully participate in the digital economy.

While AB1665 addresses the subject of broadband, it does so without regard to the technology or the market forces that deliver these solutions. Inyo believes that market competition is important if California is to close the digital divide and that AB1665 should not be used to further monopoly dynamics in an already challenged rural marketplace.

AB1665, as written, contains insurmountable flaws, including

- Monopolistic Gating Factors: Coupling CASF funding to Connect America Funds (CAF), a federal program that solely supports incumbent service providers. As presented in several passages of the bill, when CAF funds are qualified in an area, then CASF funds cannot be used. This covers almost all areas of rural California. CAF is a “direct award” FCC program that supports further ILEC subsidies. Because it is not competitive, CAF should in no manner serve as a gating factor for CASF funding. The authors of the bill promote anti-competitive, monopoly markets.

- Regressive Technology Targets: Broadband consists of a number of dynamic characteristics like “jitter”, “latency,” and bandwidth. These are critical factors that evolve rapidly over time as the technology changes. Why is the legislature passing laws that will span several technology cycles focusing on technology? And the 10/1 Megabits Per Second speeds were met in the early 1990s. Today that would put California below Mexico and Vietnam in the ratings of national networks. Standards are dynamic and the legislature should defer to experts who submit solutions and those who review them at the CPUC. The industry continues to grow with technology and costs follow Moore’s law. An appropriate analogy would be to legislate 286 Processor chips in all computers.
- Preserves Middle Mile Domination: AB16645 inexplicably excludes middle mile solutions, when in many cases it is the monopolization of middle mile that has hindered broadband development in whole regions of California, which are sometimes called “Digital Deserts.” AB1665 should not preemptively preclude middle mile solutions. These solutions should be assessed by expert staff at the CPUC, who should examine each case at a time. Middle Mile solutions can disrupt markets in positive ways that promote competitions and further private investment.
- Institutionalizes the Illegal Practice of Overhanging Markets: The “Right of First Refusal” is AB1665’s version of the ancient practice of *jus primae noctis*. In this case, it is not the betrothed who is violated, but any of California’s underserved communities. The proposed legislature would grant incumbent providers the ability to select which markets they want to keep potential competitors out. Does it really make sense that dominant players can secretly dictate what markets they can hold under their control by claiming they will commit public funds – to which they alone have access – to a future market when another company publicly seeks funds? And this is not once, but in AB1665, it becomes a “rolling” practice -- just in case they don’t get it right the first round. Even *jus primae noctis* was not that embolden.
- Public Money Does Not Require Public Disclosure: AB1665 protects incumbents from disclosing plans while others must publish full details of their application when applying for CASF funds. This not only reduces the accountability that incumbents have when accessing public funds, but it also serves as a disincentive for new applicants, who put themselves out only to have the incumbent declare the proposed market is in their future plans.

For over a decade, the Inyo Networks team has been developing broadband solutions. Past and current projects improve meaningful broadband available in some of the most remote parts of the state. More than \$180 millions of Inyo’s projects have leveraged \$78 million in California Advanced Services Funds (CASF) to substantially improve broadband to some 45,000 households, businesses and community institutions. This includes over 400 schools, libraries, medical facilities, public safety and other government institutions. In the process, we bring significant broadband solutions to over 50 communities, including 10 tribal communities. Inyo supports the growth of other providers as well: since completed the Digital 395 Project in the Eastern Sierra, for example, the number of ISPs in the

region has trebled and the average broadband speeds for the area have increased by two orders of magnitude (from 1.7 Mbps to over 300 Mbps).

Despite bringing over \$100 million additional resources to fund California broadband, as well as the substantial connectivity outlined above, AB1665 would marginalize Inyo Networks and other companies like ours. In effect, we would not have access to subsidy funds that is a singular force enabling competitive investment in high-cost, rural markets. With access to these resources, we can continue to work with regional consortium to target digitally challenged populations, partner with local economic development institutions and collaborate with county leadership to develop robust broadband projects.

We OPPOSE AB1665, a well-intentioned bill filled with flaws so serious that it would actually reverse the progress that California has been making with broadband over the past decade. The bill needs to support a wide set of incentives for broadband investment and not be limited to those having access to non-competitively available federal funding. AB1665 is not based on a clear understanding of technology dynamics, let alone market trends. AB1665 is regressive, rather than encouraging entrepreneurship, a hallmark of California's culture and economy.

For the reasons above, we OPPOSE AB1665 and respectfully urge a NO vote.

Respectfully,

A handwritten signature in blue ink, reading "Michael T. Ort". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Michael T. Ort, Ph.D.

Chief Executive Officer

Honorable Members, Senate Energy, Utilities and Communications Committee;; Jay Dickenson, Chief Consultant, Senate Energy, Utilities and Communications Committee; Nidia Bautista, Consultant, Senate Energy, Utilities and Communications Committee; Melanie Cain, Assistant, Senate Energy, Utilities and Communications Committee