

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of Pacific Bell Telephone Company
d/b/a AT&T California (U 1001 C) for Targeted
Relief from Its Carrier of Last Resort Obligation
and Certain Associated Tariff Obligations.

A.23-03-003
(Filed March 3, 2023)

**NOTICE OF EX PARTE COMMUNICATION
OF AT&T CALIFORNIA**

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February 29, 2024

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Bell Telephone Company
d/b/a AT&T California (U 1001 C) for Targeted
Relief from Its Carrier of Last Resort Obligation
and Certain Associated Tariff Obligations.

A.23-03-003
(Filed March 3, 2023)

**NOTICE OF EX PARTE COMMUNICATION
OF AT&T CALIFORNIA**

Pursuant to Rules 8.2 and 8.4 of the Commission’s Rules of Practice and Procedure, Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) (“AT&T California”) hereby gives notice of an ex parte meeting in the above-captioned proceeding to discuss AT&T California’s request for relief as well as the status of and schedule for the proceeding. The meeting was held via Webex on February 27, 2024 from approximately 1:00 p.m. to 1:30 p.m.

In attendance for the Commission were Kourtney Vaccaro, Chief of Staff to Commissioner Douglas, and Caryn Mandelbaum, Advisor to Commissioner Douglas. In attendance for AT&T California were Marc Blakeman, President – AT&T California & Pacific States; Nelsonya Causby, Assistant Vice President – Senior Legal Counsel, AT&T; Karl Wardin, Assistant Vice President – Regulatory, AT&T; and Maureen Jeffreys of Arnold & Porter Kaye Scholer LLP, attorney for AT&T California. The meeting was initiated by AT&T California. No materials were provided or utilized before, during, or after the meeting.

AT&T California discussed its request for relief from its carrier of last resort (“COLR”) obligation and highlighted recent scheduling changes that have jeopardized the Commission’s ability to resolve the proceeding in a timely manner. AT&T California explained that timely resolution of the COLR proceeding is critical to achieving key economic, social, and

environmental goals that AT&T California shares with the state to keep pace with the demands of a growing economy, an equitable society, and environmentally sound business objectives.

During the meeting, AT&T California explained that it filed its application in March 2023, submitted opening testimony in December 2023, and was preparing for an evidentiary hearing scheduled for April 2024, with the expectation that the Commission would meet its statutory obligation to resolve the application by early September 2024. However, on February 5, 2024, the assigned Administrative Law Judge issued a procedural email contemplating the postponement of all further dates in the proceeding with the exception of the public participation hearings and a status conference on April 2, 2024 to “allow sufficient time to ascertain whether potential COLRs are interested in replacing AT&T as a COLR.” A formal ruling to revise the schedule has not yet been issued. AT&T California expressed concern that the Commission should not put the COLR relief proceeding on indefinite hold while engaging in a process to identify a replacement COLR.

First, AT&T California explained that there is no legal requirement for the Commission to identify a replacement COLR, let alone hold an auction to select one. There is no statutory obligation to do so, and the Universal Service Rules do not mandate it. Rule 6.D.7 expressly permits a COLR to relinquish its designation via an approved application whether or not the Commission holds an auction to select a replacement COLR. Even if Rule 6.D.7 were read to require a reverse auction, the Commission has express authority under Public Utilities Code section 1708 to waive the requirement, which would be appropriate given that an auction would be futile.¹

¹ Cal. Pub. Util. Code § 1708 (“The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it.”); *see also id.* § 701.

Second, AT&T California expressed concern about the timing of the delay. As AT&T California explained, the Commission has never established an auction process. Because the Commission has no established process to conduct an auction, it would have to develop the rules for an auction from scratch. To date, neither the Scoping Memo nor other ruling in this proceeding has provided a process or timeline for conducting a potential auction. Any replacement COLR process including an auction at this stage of the proceeding would be unduly lengthy. Even if auction rules could be efficiently formulated, it is unlikely that any carrier would participate. With the increase in competition and the sharp decline in support from the High Cost Fund B over the past decade, there is little incentive to take on COLR obligations today. Indeed, the COLR proceeding has been open for nearly a year, and no entity has come forward to become a replacement COLR.

Third, AT&T California explained at the meeting that it would be unwise from a policy perspective for the Commission to focus on finding a replacement COLR through an auction because it wastes time and resources and delays the public benefits of COLR relief. The Commission has no funds allocated to support an auction to select a COLR across AT&T California's *entire* service territory because the High Cost Fund B is only available for high-cost areas. With little prospect that a replacement COLR will materialize with or without an auction, halting the proceeding to solicit carrier interest almost certainly will leave the Commission in exactly the same position it is in now, whenever the proceeding resumes months down the line. AT&T California's COLR designation is no longer needed to promote universal service in today's competitive landscape and actually impedes promotion of universal broadband service.

AT&T California further noted that the contemplated changes to the schedule are inappropriate because the need to identify a replacement COLR and whether to hold an auction

are key contested issues in the proceeding. These issues should be decided by the full Commission at the end of the proceeding, not through procedural rulings before the evidentiary hearing and legal briefing have occurred.

At a minimum, AT&T California respectfully requested that the schedule continue forward and not be put on hold while the Commission ascertains other carriers' interest in being the replacement COLR and potentially conducts an auction. Even if the Commission ultimately decides there must be a replacement COLR, the parties' pre-filed testimony and the evidentiary hearing will yield information about other carriers' coverage, unserved areas, and other topics to inform the decisions the Commission would have to make about holding an auction for a replacement COLR with modest funding. AT&T California also urged the Commission to move forward with completing the factual record in the proceeding, even while awaiting responses to its notices to potential COLRs, which were sent on February 20, 2024, with a response date of April 30, 2024. Delaying the schedule to await any potential responses would only impede the Commission's decision-making on whether an auction should be conducted and for what areas.

Finally, AT&T California noted that further delay in the schedule will make it impossible for the Commission to complete the proceeding within 18 months. Conversely, timely resolution of this proceeding will hasten completion of AT&T California's transition to its futureproof fiber and wireless broadband network and deliver myriad benefits for Californians.

Dated: February 29, 2024

Respectfully submitted,

/s/ Nelsonya Causby

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