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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Proceeding
to Consider Changes to the
Commission's Carrier of Last Resort
Rules.

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PUBLIC UTILITIES COMMISSION
JUNE 20, 2024
SAN FRANCISCO, CALIFORNIA
RULEMAKING 24-06-012

**PROPOSAL OF SMALL BUSINESS UTILITY ADVOCATES IN RESPONSE TO THE
QUESTIONS IN THE RULEMAKING PROCEEDING TO CONSIDER CHANGES TO
THE COMMISSION'S CARRIER OF LAST RESORT RULES**



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Dated: September 30, 2024

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In accordance with the California Public Utilities Commission (Commission) Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort (COLR) Rules filed June 20, 2024 (OIR), Small Business Utility Advocates (SBUA) submits this proposal responsive to the questions contained in the OIR.

This proposal builds upon and expands SBUA's initial response filed on July 18, 2024, which emphasized the critical importance of maintaining COLR rules to ensure that small business and other customers, particularly those in underserved communities, retain access to essential telecommunications services. We emphasized the disproportionate impact that the withdrawal of COLR obligations could have on small businesses, which rely on reliable communication infrastructure to thrive.

I. PROPOSAL

In the OIR, the Commission asked interested stakeholders to file and serve proposals responsive to 12 questions labeled (a) through (l). SBUA's preliminary responses to those questions are below.

a. Is it still necessary for the Commission to maintain its COLR rules?

Yes, it's still necessary for the Commission to maintain its COLR rules. These rules are vital to ensure that all individuals and communities in California, especially those in underserved areas, have access to reliable and affordable telecommunications services – specifically, end-to-end voice service. This is crucial not only for residential users but also for small businesses that rely heavily on reliable communication for their operations.

In Environmental and Social Justice (ESJ) communities,¹ there has been a notable trend of disinvestment by service providers. This includes deteriorating service quality and a lack of adequate service options.² For instance, in Los Angeles County, there's evidence that infrastructure investments have disproportionately bypassed less affluent and predominantly Black communities, and that traditionally Black neighborhoods are seeing significantly less competition among ISPs deploying

¹ Environmental and Social Justice communities (or ESJ communities) were initially defined in the ESJ Action Plan as including (1) Disadvantaged Communities, (2) Low-Income Census Tracts, (3) Low-Income Households, and (4) Tribal Lands. Version 2.0 of the ESJ Action Plan includes a broad spectrum of populations that warrant prioritization in Commission policies and programs. It encourages Commission initiatives to further consider, for example, those with Access and Functional Needs (AFN), individuals with medical vulnerabilities, communities experiencing disproportionate challenges with affording utility services, unhoused individuals, or indigenous populations living off tribal lands). See Commission Environmental and Social Justice (ESJ) Action Plan Version 2.0, April 7, 2022, at 21-22. <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-of-fice/key-issues/esj/esj-action-plan-v2jw.pdf>.

² See, e.g., Network Exam Findings, referenced in Commissioner's Scoping Memo, Rulemaking (R.) 22-03-016, citing Decision (D.) 13-02-023 and D.15-08-041; see also Administrative Law Judge's Ruling, R 22-03-016, August 31, 2022 (Network Exam Report, Phase I, Chapter 1 at 1-2 states "The Network Exam found that both AT&T and Frontier have focused investments over the past ten years in... higher-income communities, resulting in poorer service quality and fewer alternatives for lower-income communities and communities of color;" Network Exam Report, Phase 2, states that AT&T and Frontier continue to focus on investments in higher-income communities [see Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, August 31, 2022, at 3]).

advanced fiber technologies as compared to areas with fewer Black residents.³ Such practices exacerbate the digital divide.

The COLR obligations are essential as they mandate universal access to critical communications services, even in locations where providers may deem that market forces alone don't justify investment.

Part of these obligations includes maintaining a copper-based network, which is crucial not only for the delivery of traditional Plain Old Telephone Service (POTS) where modern infrastructure may not yet be fully implemented or reliable but also for ensuring that these areas are not left without any telecommunication services as newer technologies are introduced and expanded. By enforcing these obligations, the Commission helps prevent a cycle of disinvestment and ensure that all communities, regardless of their economic status or geographic location, have continuous access to basic and emergency communication services.

COLR obligations also support small businesses by guaranteeing the availability of basic telecommunication services. While many large enterprises have transitioned away from traditional POTS lines to more modern technologies like VoIP and broadband, some small businesses remain dependent on these basic services.⁴ Access to reliable communication is crucial for small businesses to connect with customers,

³ Hernan Galperin et al., "Who Gets Access to Fast Broadband? Evidence from Los Angeles County 2014-2017," USC Annenberg, CCIG Policy Brief No. 4, October 8, 2019. <http://arnicusc.org/wp-content/uploads/2019/10/Policy-Brief-4-final.pdf>.

⁴ See Revised: C. Burgy, "The Hidden Challenge Facing Thousands of Businesses," November 2, 2021. <https://security.world/the-hidden-challenge-facing-thousands-of-businesses/>.

suppliers, and employees effectively, playing a key role in their ability to thrive and contribute to California's significant economy.⁵

As such, maintaining COLR obligations not only addresses equity issues but also supports economic stability in California, including across diverse communities.

b. Should the Commission revise the definition of a COLR, and if yes, how should the Commission revise that definition? What should be the responsibilities of a COLR?

Yes, the Commission should revise the definition of a COLR. Currently, the Commission defines a COLR as “a telecommunications service provider that stands ready to provide basic telephone service, commonly landline telephone service, to any customer requesting such service within a specified area.”⁶ Today, broadband⁷ and wireless service⁸ are also considered essential services. The definition of COLR – and the COLR obligations – should reflect that.

⁵ California State Assembly Committee on Jobs, Economic Development, and the Economy, “California’s Small Business Economy,” (“California’s dominance in many economic areas is based, in part, on the significant role small businesses play in the state’s \$3.1 trillion economy”). <https://ajed.assembly.ca.gov/content/californias-small-business-economy>.

⁶ See Commission, “AT&T Applications Regarding Carrier of Last Resort and Eligible Telecommunications Carrier Designation.” <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/att-colr-etc-proceedings>.

⁷ In the Infrastructure Investment and Jobs Act signed into law by President Joe Biden on Nov. 15, 2021, Congress recognized that “access to affordable, reliable, high-speed broadband is essential to full participation in modern life in the United States.” In other words, broadband access is like access to running water or electricity. It is essential infrastructure, the lack of which is a barrier to economic competitiveness and the “equitable distribution of essential public services, including health care and education.” Infrastructure Investment and Jobs Act, Public Law No. 117-58, November 15, 2021. <https://www.govinfo.gov/app/details/PLAW-117publ58>. See also Hernan Galperin, “Infrastructure law: High-speed internet is as essential as water and electricity,” November 17, 2021. <https://theconversation.com/infrastructure-law-high-speed-internet-is-as-essential-as-water-and-electricity-171782>.

⁸ See <https://new.nsf.gov/focus-areas/communications-wireless> on which the U.S. National Science Foundation states, “Wireless communication networks are an essential service of modern society, connecting billions of people and supporting critical services, including education, transportation and public health” (emphasis added).

c. Should the Commission revise how it defines a COLR's service territory?

Yes, the Commission should revise how it defines a COLR service territory once broadband and wireless are recognized as essential services. The revised definition should also take into account whether there are ESJ communities in a COLR's service territory given the Commission's commitment to furthering the principles of ESJ, including the Commission's recognition of populations that may warrant prioritization in Commission policies and programs. And the Commission should take into consideration whether an area has a high concentration of small businesses, given that small businesses are essential drivers of the California economy⁹ – particularly in ESJ communities, where they often serve as catalysts for economic empowerment, community development, and social cohesion.¹⁰

⁹ Small businesses are often referred to as the backbone of California's economy because they play a crucial role in economic growth, job creation, and innovation. The 4.1 million small businesses in California make up 99.8% of all businesses in the state, and they employ 47.9% of the private workforce in California. U.S. Small Business Administration, Office of Advocacy, "California 2023 Small Business Profile." <https://advocacy.sba.gov/wp-content/uploads/2023/11/2023-Small-Business-Economic-Profile-C-A.pdf>.

¹⁰ See National Community Reinvestment Coalition, "The COVID Pandemic and Its Impacts on Culturally-Significant Businesses," 2021. <https://nrc.org/the-covid-pandemic-and-its-impacts-on-culturally-significant-businesses/> ("Being seen as sources for consistency and care, as well as employment, strengthens the relationship between businesses and communities – developments that enhance a sense of cultural significance"); "To expand the economy, invest in Black businesses," Andre M. Perry and Carl Romer, December 21, 2020. <https://www.brookings.edu/essay/to-expand-the-economy-invest-in-black-businesses/>. See also, e.g., Lawyers' Committee for Civil Rights of the San Francisco Bay Area, Small Businesses in Crisis in the San Francisco Bay Area: Displacement Trends and Solutions at 14 (2016). https://lccrsf.org/wp-content/uploads/LCCR_San-Mateo-Business-DisplacementFINAL2-28Dec2016.pdf ("[S]mall businesses... are essential members of low-income communities of color").

d. Are there regions or territories in California that may no longer require a COLR? Are there regions that require COLR service? If yes, how should the Commission distinguish between the two? What criteria should be met for a region or territory to no longer require COLR designation?

Without commenting on whether there are regions or territories that may no longer require a COLR, ESJ communities and communities with high concentrations of small businesses require a COLR.

e. Can the Commission require Voice over Internet Protocol (VoIP) providers to be COLRs? If yes, should the Commission designate VoIP providers as COLRs?

Yes, the Commission can and should consider designating VoIP providers as COLRs. By designating VoIP providers as COLRs, the Commission can help to shrink the digital divide and ensure that all Californians, particularly those in ESJ communities, have equitable access to necessary communications and connectivity in our increasingly digital world. However, doing so should not relieve telephone service providers of their current COLR obligations.

f. Can COLR service be provisioned using wireless voice service? Can the Commission direct wireless voice providers to serve as COLRs? If yes to both, should the Commission designate wireless voice providers as COLRs?

Yes, the Commission can and should consider designating wireless voice service providers as COLRs. By designating wireless voice service providers as COLRs, the Commission can help to ensure that all Californians – particularly those in ESJ communities, have equitable access to essential communications.¹¹ However, doing so should not relieve telephone service providers of their current COLR obligations.

¹¹ See fn. 8 and accompanying text.

g. If the Commission does not have the authority to require a wireless voice provider to offer COLR service, is a wireless voice provider eligible to volunteer to be a COLR? If yes, should the Commission grant such an application? Should the requirements of a potential wireless COLR be different than a COLR offering Plain Old Telephone Service (POTS) or VoIP service?

If the Commission does not have the authority to require a wireless voice provider to offer COLR service, a wireless voice provider should be eligible to volunteer to be a COLR and the Commission should be permitted to grant such an application. Indeed, the Commission should encourage such applications. Without commenting on whether a potential wireless COLR should have more obligations than a COLR offering POTS or VoIP service, it should certainly not have fewer.

h. Should the Commission revise the requirements of basic service? If yes, which requirements or elements should be revised, and what should be those revisions?

The Commission should recognize broadband and wireless telephone service as essential services, revise the requirements of basic service as applicable, and take into account technical metrics that assess the quality of broadband and wireless telephone service, as appropriate.

i. Should the Commission revise the subsidy amount offered for participation in the California High Cost Fund-B? What is an appropriate subsidy amount and how should it be calculated?

SBUA reserves the right to comment on this question at a later time.

j. Should the Commission revise its rules for how and when a COLR is allowed to withdraw from its designated service territory? If so, how should the Commission revise its rules? Should the Commission require that the service of a potential replacement COLR be functionally similar to that of the current COLR? If yes, what similar functionality requirements should the Commission adopt?

Should the Commission revise its rules for how and when a COLR is allowed to withdraw from its designated service territory, the Commission should hold a COLR to a higher standard if the territory from which the COLR is seeking to withdraw contains a

high concentration of small businesses or disadvantaged communities, low-income census tracts, low-income households, tribal lands, communities of color, or any other ESJ communities.

k. When should a COLR seeking to withdraw be required to notify residents in the COLR territory of its request to withdraw? What should be included in the contents of that notification? What method(s) should be used for notification?

As SBUA stated in its response to this OIR, on July 18, 2024, the Commission should revise this question so that it includes small business customers.¹² We reiterate our previous suggestion to modify the question as follows:

When should a COLR seeking to withdraw be required to notify ~~residents~~ all ratepayers in the COLR territory of its request to withdraw? What should be included in the contents of that notification? What method(s) should be used for notification?

This inclusion is crucial for small businesses because they often rely heavily on these telecommunications services for their day-to-day operations, customer interactions, and overall business viability. Any disruption in service without proper notification could have severe economic consequences for these businesses, potentially leading to lost revenue, decreased customer satisfaction, and operational challenges.

Regardless of any change, notifications to all ratepayers should be available in multiple languages and should be accessible to people with disabilities. Any requirements regarding notifications to residents should apply equally to small business ratepayers in that COLR territory.

¹² Response of Small Business Utility Advocates to the Order Instituting Rulemaking to Consider Changes to the Commission's Carrier of Last Resort Rules (filed July 18, 2024) at 2-4.

I. If a COLR applies to withdraw, and a new COLR is designated, is there a need for a customer transition period? If yes, how long should that transition period last? What customer service protections, if any, should the Commission impose as part of a customer transition period? What other elements or processes, other than customer protections, should be provided in a customer transition period? How long should a customer transition period last?

If a COLR applies to withdraw and a new COLR is designated, there should be a customer transition period of at least six months to allow for a smooth and well-informed transition. During this period, the Commission should impose strict customer service protections, which should include but not be limited to guarantees of service continuity, a cap on rate changes, and dedicated support for troubleshooting and customer queries. Additional support services should be made available to small businesses to help them manage the transition without disrupting business operations. Financial assistance or subsidies should also be made available to small businesses and low-income ratepayers and ratepayers in ESJ communities to assist with potential costs or cost adjustments during the transition period.

Other elements should include regular updates to customers about the transition progress and any potential changes they may experience in their service or billing. All communications about the transition should be available in multiple languages and accessible to people with disabilities. The Commission should also consider including the option to extend the transition period beyond the standard length of time for small businesses and ratepayers in ESJ communities as needed to ensure uninterrupted service and minimal economic impact.

II. CONCLUSION

SBUA appreciates the opportunity to submit this proposal and looks forward to continuing to work with the Commission and other stakeholders to refine the COLR

obligations in a way that ensures equitable and reliable telecommunications access and connectivity for all Californians.

Dated: September 30, 2024

Respectfully submitted,

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