

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



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

R.24-06-012

**PROPOSAL OF EMPOWERING QUALITY UTILITY ACCESS
FOR ISOLATED LOCALITIES ("EQUAL")
FOR CHANGES TO CARRIER OF LAST RESORT RULES
IN ORDER INSTITUTING RULEMAKING PROCEEDING**

Anita Taff-Rice
iCommLaw
1547 Palos Verdes, #298
Walnut Creek, CA 94597
Phone: (415) 699-7885
Fax: (925) 274-0988
Email: anita@icommlaw.com
*Counsel for Empowering Quality Utility Access for
Isolated Localities (EQUAL)*

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Empowering Quality Utility Access for Isolated Localities (“EQUAL”) hereby submits its proposal for changes to the Commission’s rules for carriers of last resort (“COLRs”) in response to the Order Instituting Rulemaking (“OIR”) in the above-captioned proceeding.¹

I. SHOULD THE COMMISSION REVISE ITS RULES FOR HOW AND WHEN A COLR IS ALLOWED TO WITHDRAW²

EQUAL submits that recent experience in A.23-03-00,3 in which Pacific Bell Telephone Company d/b/a AT&T California (“AT&T”) unsuccessfully applied to withdraw as COLR in virtually all of its service territory,³ demonstrates the need for revisions to the COLR rules. AT&T admitted that no other COLR serves its territory, but nonetheless attempted to abandon its COLR obligations. AT&T’s counsel stated at the pre-hearing conference, “we have made clear in our prior filings that there is not another COLR in AT&T’s service territory. I don’t think that’s an issue that’s in dispute.”⁴ Nonetheless, AT&T asserted that it should be allowed to withdraw as the COLR based on the purported existence of other carriers – primarily cellular carriers.⁵ AT&T provided no data demonstrating service availability, quality or reliability of replacement carriers, instead relying entirely on coverage maps.

The OIR correctly notes that the purpose of the COLR rules is to fulfill the Commission’s legislative mandate “to ensure universal telecommunications service includes “[e]ssential telecommunications services” that are “provided at affordable prices to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations.”⁶ Thus,

¹ EQUAL has a pending motion for party status filed on July 15, 2024, however, pursuant to instructions in the OIR, any party filing a proposal will be granted party status. OIR, at p. 9.

² This question is identified as Issue J in the OIR.

³ See Administrative Law Judge’s Ruling on Noticing Potential Carriers of Last Resort, Attachment A, (Feb. 28, 2024).

⁴ A.23-03-003, RT for Pre-hearing Conference, Aug. 3, 2023, at 13:22-24.

⁵ A.23-03-003, Testimony of Mark Isreal, at Section III.

⁶ OIR, at p. 1 (*citing* Stats. 1994, Ch. 278 (Polanco and Moore)).

when a COLR wishes to withdraw from its universal service obligations, the Commission must ensure that another carrier is available to provide all customers with comparable voice communications.

EQUAL represents Californians living in areas that are isolated due to geography, topography and other factors, and who have no meaningful alternative to POTS. Ensuring that a comparable voice service is available before an existing COLR may withdraw is critical to providing Californians with access to emergency services, government information and assistance, education and social interaction. Because no alternate COLR exists in the major ILEC territories, it will be necessary for a replacement COLR to be identified. The Commission should impose a rigorous set of rules that guarantee any carrier identified by a COLR as a potential replacement providers can provide comparable service to POTS. EQUAL is proposing a list of minimum technical and operational requirements for an alternate carrier's service to be considered sufficient to enable a COLR to apply to withdraw. Chief among those requirements is that the replacement service must be facilities-based and comparable in availability, reliability and quality to POTS.

The rules and process for identifying and vetting a replacement COLR must be updated to ensure that at least one viable voice service option exists for all Californians. The AT&T COLR withdrawal application demonstrated that the two existing alternatives in the Commission's rules are unlikely to produce a replacement COLR in a timely and efficient manner, if at all. In A.23-03-003, the Commission issued a notice to 207 representatives of local exchange carriers operating in California, giving them 60 days to indicate interest in taking over

COLR designation from AT&T.⁷ Not a single carrier responded.⁸ EQUAL is aware, however, that representatives from some CLECs approach AT&T to explore the possibility of becoming a replacement COLR. AT&T either did not respond or had one call and never followed up. After no COLR replacement was identified for any portion of AT&T's service area, the Commission denied AT&T's application (correctly in EQUAL's view).

Under the current rules, if a carrier is the only COLR, it must file an application to withdraw. The Commission's COLR rules hold that an existing COLR must "continue to act as the COLR until the application is granted or a new COLR has been designated as a result of an auction."⁹ The Commission can grant a COLR withdrawal application in one of two ways: (a) another carrier is identified and is willing to serve potential as a COLR or (b) a reverse auction is held, and the result is another carrier comes forward and is willing (and able) to serve as a COLR.¹⁰ If no replacement COLR is identified in the application, or if a replacement COLR does not come forward once the application has been filed, the Commission must hold a reverse auction. If no replacement carrier is identified in the reverse auction process, then the Commission must deny the COLR withdrawal application.¹¹

Had the Commission continued to the auction process for AT&T, EQUAL is unconvinced it would have been successful. The Commission's auction rules presuppose that there will be multiple carriers willing to assume COLR obligations and those carriers must "bid on the amount of subsidy each would require to operate as the COLR."¹² Competitive carriers

⁷ See Administrative Law Judge's Ruling on Noticing Potential Carriers of Last Resort, Attachment A, (Feb. 28, 2024).

⁸ D.24-06-024, *Decision Dismissing with Prejudice the Application of AT&T California to Withdraw as a Carrier of Last Resort*, at p. 5 (June 20, 2024) (mimeo).

⁹ D.12-12-038, Appendix C, Section 6(c) (excerpting D.96-10-066, Appendix B, Section C).

¹⁰ Appendix C, Section 6(c) in D.12-12-038 and Appendix B, Section(c) in D.96-10-066.

¹¹ OIR, at p. 4.

¹² D.91-10-066.

could bid to become the replacement COLR, but only half of the subsidy would be available to them.¹³ Given that no ILEC or CLEC volunteered to become a replacement COLR, and CLECs could qualify for only half of the existing subsidy, EQUAL respectfully submits that an auction will likely not be successful in finding replacement COLRs.

EQUAL is proposing a third alternative in which a COLR may qualify to withdraw by proactively working with other carriers to facilitate their ability to serve as a replacement COLR. That process would entail a COLR entering into an enforceable agreement with the replacement COLR to assign or otherwise transfer use of the COLR's copper plant (including vaults, manholes, collocation areas, pole attachments, conduit space, etc.) for a nominal amount, provide financial incentives, and to work with the replacement COLR to hand off operational and customer data and access to back-office systems needed for customer service and billing. In this way, the replacement COLR can ensure that a replacement carrier with comparable service availability, reliability and quality is available. EQUAL notes that the vast majority of purported alternative voice providers identified by AT&T in A.23-03-003 were third parties over whom AT&T had no control, and no access to their technical, operational or financial data. It was therefore impossible for AT&T to vet whether these third-party providers actually did or could provide comparable service to POTS.

The Commission should assist in the process by making available to the replacement COLR the same subsidies and other financial assistance and benefits as the exiting COLR receives. In addition, the Commission should automatically give replacement COLRs Eligible Telecommunications Carrier ("ETC") status, automatically approve the assignment/transfer of the existing COLR's facilities to the replacement COLR and make funding from state and federal

¹³ See D.96-10-066, Appendix B, at p. 11, (E), Competitive Bidding To Serve As The COLR, 1. b.

programs available to defray the cost of repairing or upgrading the exiting COLR's facilities.

The Commission's examination of the state of AT&T California and Frontier California's copper network found persistent disinvestment and declining service quality.¹⁴ The poor condition of AT&T's copper plant is likely a primary reason that no replacement COLR stepped forward and will serve as a significant disincentive for replacement COLRs going forward. EQUAL submits that requiring existing COLRs to work closely with replacement COLRs to facilitate handoff of copper facilities that the ILECs apparently have no interest in preserving or utilizing is the only feasible way to address COLRs' desire to exit the POTS market and to protect consumers.

II. PROCEDURAL ISSUES

EQUAL submits that the process for allowing a COLR withdrawal encompasses detailed technical, operational and financial topics. Therefore, a robust process will be needed to ensure that replacement COLRs will acquire the needed data, facilities and operational resources to succeed. Such effort should include discovery, technical workshops and likely hearings because EQUAL anticipates that numerous disputes of material facts related to COLR withdrawal rules will arise. In particular, a series of technical workshops will be essential so that a replacement COLR's technical personal may exchange information with exiting COLR's personal on a variety of topics including location and condition of existing landline assets, connectivity points (network and end user locations), back-office systems for customer service and billing, and transfer of data related to COLRs' networks, customer base, etc. While legal counsel may attend such workshops, discussions should be focused on technical issues, not legal positions. A neutral facilitator should be assigned to oversee the workshops to ensure that all voices are heard

¹⁴ Examination of the Local Telecommunications Networks and Related Policies and Practices of AT&T California and Frontier California, June 17, 2021.

and that the workshops are efficient. Workshop reports should be prepared and approved for accuracy by all attendees.

A. Technical Workshop Proposal

At a minimum, EQUAL proposes the following topics for technical workshops:

- Understanding the current state of the COLRs' POTS/copper networks at a macro level.
- Suitability of various technologies for providing POTS or POTS-like service on copper, fiber, wireless facilities, protocols and capabilities
- Development of the definition/requirements for POTS alternatives (availability, features, backup)
- Examination of whether POTS alternatives are or can be as reliable, or more reliable, than a properly engineered, deployed and maintained, copper network, including how to address reliability variances due to topography, terrain, distance and density of population
- Examination of reliability of POTS networks compared to alternative technologies – e.g. how single points of failure for POTS networks compare to other technologies (e.g. VoIP over FTTH, VoIP over Coax, VoIP over fixed wireless, 4G/LTE mobile, 5G, 5G SA – including coverage, signal strength minimums, and fade margin for wireless coverage areas).
- Technical requirements for transitioning POTS-based emergency and safety services to new technologies (e.g. fire alarm panels, “blue call boxes”, elevator call boxes, security systems, pay phones)
- Methods and requirements to validate availability, reliability and capabilities of technologies to be used by replacement COLRs (e.g. drive tests, walk tests, POTS line ping tests, mapping tools and data sets)

- Current and historic count of POTS lines per CBG to enable an identification of current and likely continuing POTS usage
- Development of a COLR portal system to manage transition to replacement COLR issues such as acceptance, coverage, and identification of areas for which no COLR replacement has been found

B. Public Participation Hearings and Public Comments

EQUAL submits that the public participation hearings (“PPHs”) and written comments in A.23-02-003 provided extraordinary insight into customers’ reliance on POTS and the lack of any meaningful alternative voice services. EQUAL proposes that the Commission have both PPHs and provide for written comments in this proceeding, but respectfully suggests some modifications.

First PPHs should be scheduled at locations throughout the state, focusing on areas with high concentrations of POTS customers. People in isolated communities may lack the financial ability or mobility to attend in-person PPHs, however, so all PPHs should allow for remote access, both by phone and video conference. Because customers in remote locations may not have access to reliable phone or broadband service, arrangements should be made for customers to access the PPHs remotely from local libraries or government offices.

PPHs should be held at various locations around California to get information from local residents about not only about their current lack of alternative service options, but also to get input on what alternatives might work for them. It would be informative to get input from local residents on what types of services or ensured levels of service would be an acceptable option(s) if their copper wireline service was to be no longer available.

All parties to the proceeding should be allowed to post information for consumers on the Commission’s website so that residents can be informed of various parties’ positions and

concerns. Due to the likely volume of people appearing at PPHs, speaking time will be limited. Therefore, customers should be allowed organize themselves into likeminded groups and yield their time to an appointed spokesperson who would speak on their behalf. For example, a spokesperson representing at ten residents would be guaranteed ten minutes of time to speak. PPHs should have posted agendas so that residents are apprised of the topics to be discussed and can provide more targeted and relevant information. The Commission might want to encourage resident groups to notify the Public Advisor's Office prior to the PPH (if possible) that they will be appearing as a group, with a designated speaker, and provide the number of residents they are representing.

In addition to PPHs, the Commission should enable written public comments, as it did in A.23-03-033. These public comments should be downloadable in a CVS format so that parties can sort the data for detailed analysis.

C. Evidentiary Hearings Required

EQUAL anticipates that due to the large number of technical, financial and operational issues, material disputes of fact are likely to arise. Therefore, EQUAL proposes that an evidentiary hearing be included in the schedule.

III. LEGAL AND REGULATORY QUESTIONS IN OIR

L. Is it still necessary for the Commission to maintain its COLR rules? Rebuttable presumption adopted.

To meet the legislative mandate of universal service, COLRs are required. Before any COLR may abandon its status, at least one alternate voice service offering the same quality, reliability and ubiquity must be identified with verifiable data. Analysis of replacement COLR service should be done on a granular basis, ideally per address/serviceable location, or at the

most, at the zip code level. The withdrawing COLR/replacement COLR must provide actual evidence of service availability/reliability from representative end user locations,¹⁵ and service testing must be done from inside homes (where customers in isolated areas need POTS).

EQUAL notes that some existing validation services such as the Federal Communications Commission's 5G test is available only in outdoor locations.

The OIR adopts a rebuttable presumption that the COLR construct remains necessary, at least for certain individuals or communities in California. EQUAL strongly agrees.

Californians, especially in isolated areas are uniquely dependent on POTS service because there are typically not viable alternative providers with the same coverage, quality and reliability of POTS. The Commission must establish a minimum set of requirements for a COLR to overcome the presumption that it must continue to provide COLR service. This rebuttable presumption gives the COLR a strong incentive to facilitate entry by alternate carriers who are willing and able to assume COLR obligations in the COLR's service area.

The rebuttable presumption construct also enables the Commission to make distinctions where appropriate. For example, requirements for rate-of-return COLRs might be different than for deregulated COLRs. The rules should take account of the reason COLR wishes to withdraw (e.g. technological, economic, lack of demand, etc.). Rules for POTS withdrawal may differ for ancillary services requiring copper (e.g. security services, elevator alarms) compared to residential services. Rules for CLEC/cable COLR withdrawals should be different to reflect that ILEC networks were built using ratepayer money whereas CLEC networks were not.

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¹⁵ D.22-04-055, at p. 20 – data to support whether an area is served for broadband just be, “Speed tests from end user terminals, cabinets and at other locations, that are not end users are not sufficient.”

M. Should the Commission revise the definition of a COLR, and if yes, how should the Commission revise that definition? Responsibilities of a COLR?

EQUAL believes that the definition of a COLR should be revised to include detailed minimum requirements for technical, financial and regulatory ability, that must be validated with verifiable data. Before approving a COLR withdrawal application, the Commission must ensure that the replacement COLR meets all requirements before the COLR can overcome the presumption that it must continue to operate as a COLR. From a regulatory perspective, a COLR must demonstrate that it is in full compliance with all regulations relating to the provision of services before receiving approval to withdraw from COLR status.

A showing of regulatory compliance for the existing COLR is warranted to ensure that the replacement COLR inherits a lawful and functional network. The exiting COLR is not just handing over physical plant, and operating systems, it is also handing over a variety of regulatory obligations on service quality, outage reports, etc. If the existing COLR is currently not able to comply with the regulations, then the replacement COLR would inherit facilities, back-office systems, etc. that are immediately be out of compliance with these regulations. This will place an undue burden on the replacement COLR and potentially cause continued degradations in service.

For example, the Commission must ensure that the existing COLR is in compliance with important safety requirements in the COLR's Communications Resiliency Plans before approving the withdrawal of the existing COLR. If the exiting COLR is not in full compliance, then the responsibility to become compliant falls to the replacement COLR who may not have the financial or technical resources to bring the plant to compliance. Having to take on the cost to bring the plant to compliance may make it uneconomic or otherwise unacceptable for another carrier to operate as a replacement COLR. Conversely, if the potential replacement COLR is not

currently fully compliant in its already-existing service territory, then its ability/willingness to be compliant as the replacement COLR is certainly in question.

This is extremely critical for all customers who live in areas classified as Tier 2 and Tier 3 High Fire Threat Districts and is a significant concern for EQUAL as a substantial majority of its constituents live in the highest fire threat areas. The danger is very real as these customers are the most likely to be directly impacted if there is a disaster, emergency, or power outage and they lose their access to minimum service levels and coverage including 9-1-1 service, 2-1-1, ability to receive alerts and notifications, and basic internet browsing to access emergency announcements on the internet.

EQUAL's concerns about compliance are supported by the recently issued "Site Visits Report - Emergency Disaster Relief Program Years 2021, 2022 and 2023 NETWORK PERFORMANCE AND PUBLIC SAFETY Communications Service Providers Network Resiliency Requirements in Tier 2 and 3 High Fire Threat Districts."¹⁶ This report, prepared pursuant to D.20-07-011 and D.21-02-029 by the Communications Division, acknowledges that while there has been some progress made to comply with the resiliency requirements, site visits by staff reveal there is a large number of carriers out of compliance in various categories. Of particular note, under "Key Observations," the report states, "[n]early one-third of the wireless facilities in Tier 2 and 3 HFTD still lack sufficient backup power. Wireless service providers reported in 2023 that 1,509 of their 5,388 facilities lacked 72 hours of backup power as compared to 276 of the 12,737 wireline facilities."¹⁷ This Key Observation underscores that determining compliance with Communications Resiliency Plan requirements and the ability of

¹⁶ Report is dated May 31, 2024.

¹⁷ Report, at p. 36.

both the withdrawing COLR and replacement COLR to carry out related responsibilities for compliance is a critical issue in this proceeding.

In addition, the Commission must ensure that all carriers requesting to withdraw from COLR status demonstrate that they are in full compliance with the five service quality standards for POTS under GO 133-D. These five service standards are Installation Intervals, Installation Commitments, Customer Trouble Reports, Out of Service Repair Intervals, and Answer Time, and are currently being revisited in the ongoing proceeding R.22-03-016. As previously stated, if the existing COLR is currently not able to comply with the regulations, then what they hand over to the replacement COLR will cause the replacement COLR to immediately be out of compliance with these regulations. This will place an undue burden on the replacement COLR and potentially cause continued degradation in service.

There will be additional challenges when a final decision in R.22-03-016 is adopted and new service quality standards are imposed by the Commission. A potential withdrawing COLR may be in the process of implementing the new service quality standards while they are in the process of handing over COLR status. The potential replacement COLR would be inheriting a service quality standards measurement system that is in a state of flux.

EQUAL is concerned that existing service quality deficiencies for POTS could pose an insurmountable obstacle for potential replacement COLRs. For example, in the Commission's service quality proceeding¹⁸ the Communications Division Staff Proposal noted the abysmal performance of AT&T:

The California Public Utilities Commission (Commission) established five service standards for POTS under General Order (GO) 133-D. In particular, the out of service repair intervals (OOS) standard focuses on outages and requires telephone corporations, to repair 90 percent of the outage tickets within 24 hours. Despite an established standard with penalty mechanism, AT&T, the

¹⁸ R.22-03-026.

largest POTS provider in California, has never restored more than 56 percent of their outage tickets within 24 hours from 2018 to 2023. In fact, AT&T's performance has decreased steadily from repairing 56 percent of outage tickets within 24 hours in 2018 to just 39 percent in 2023.

From a technical perspective, COLRs must demonstrate with verifiable data that a replacement COLR is facilities-based and capable of the following minimum requirements so that the COLR has clear rules to meet and the replacement COLR has a full understanding of its commitments.:

- Whether the replacement COLR may use fully digital, or a digital to analog interface to provide service;
- Service reliability of no less than 99.999% of the time.
- Provide a continuous run-time of no less than [72 hours] for each critical component in the call path.
- Provide no less than 3Khz [300-3500Hz] of spectral bandwidth, and a target of 7Khz [50-7000Hz].
- Support basic life safety equipment through analog "POTS" interface
- Support DTMF transport
- Support for legacy FAX/Modem used by certain courts, agencies and medical offices.
- Support for E911, and reliable handoff to state emergency network, and local PSAP providers.

The definition of COLR basic service, however, should be revised to remove some of the requirements that are now antiquated or competitively available to make it feasible for smaller competitors to serve as a replacement COLR for a portion of an existing COLR's service area (e.g. providing operator services, directory assistance, white page directory, etc.)

N. Should the Commission revise how it defines a COLR's service territory?¹⁹

EQUAL recommends that the COLR rules explicitly allow for a replacement COLR to serve only a portion of an existing COLR's service territory because it is not feasible to find a single carrier capable or willing to assume an existing COLR's entire territory. Any evaluation

¹⁹ D. 96-10-066 uses interchangeably service areas/territory and geographic study areas (GSAs) to refer to the geographic span a COLR in which a COLR offers service. *See*, Finding of Fact 88, GSAs are census block groups.

to verify the availability of a replacement COLR service should be done at the zip code level, not Census Block (CBs) or Census Block Groups (CBGs). As was apparent in A.23-03-003, residents are not readily familiar with CBs or CBGs and may not be aware that a COLR withdrawal would affect them. Additionally, CBs and CBGs may not be granular enough for a COLR to be able to verify that a comparable replacement service is ubiquitously available.

EQUAL recommends that the Commission adopt a similar approach to the Federal Communications Commission (“FCC”) for identifying “serviceable location” for broadband. Taxpayers have invested substantially in the gathering of this information, the mapping systems to support it, and states, ISPs and others have had to build robust systems to support feeding, maintaining, and challenging this data. While the broadband data itself may only be partially accurate due to self-reporting by providers, and artificial barriers to challenges that favor the service provider, the same dataset can be used for locations, and fully validated for COLR transitions. If existing data is not sufficient to validate service coverage, quality and reliability, the COLR must conduct tests to obtain such data. The data must be granular enough to validate the locations, coverage, and alternatives that the COLR is proposing to turn down.

Service verification for existing POTS could be done through some type of auto dialer service, potentially with a level of quality detection, scratches, dynamic range, etc. In EQUAL’s experience there are many POTS lines that are reported as being in service (i.e. being billed and paid for) that are not fully functional.

O. Are there regions or territories in California that no longer require a COLR.

EQUAL submits that a COLR is required throughout California to ensure that all Californians have access to at least one voice service that is ubiquitous, reliable and high quality.

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

EQUAL submits that there are substantial technical questions regarding provision of VoIP because many providers (some of whom are not regulated) are often involved in providing VoIP, including fixed or mobile broadband providers, over-the-top application providers, last-mile and backbone providers and in the case of nomadic VoIP, mobile carriers. Even if the Commission could designate a VoIP, or CMRS as a COLR, there is no effective way to ensure ubiquitous POTS coverage without on the ground validation – unless the replacement is willing to commit to such, report it to the FCC’s BDC, and be subjected to the Commission’s backup power, and other requirements. A Managed Facilities Voice Network “MFVN” – maybe a possible alternative wherein a fixed VoIP device is provided requiring redundant (at least two) fixed broadband and a mobile backup, or two mobile data connections where both carriers have verified coverage at the location.

These complexities of asserting jurisdiction over multiple entities, including some of whom are not regulated, will introduce conflict and delay. Rather than attempting to impose COLR obligations on VoIP providers, the Commission should establish rules that permit VoIP providers to volunteer to be replacement COLRs, so long as they meet the necessary technical, operational and financial requirements in the COLR rules.

Q. Can COLR service be provisioned using wireless technology? Can the Commission direct wireless voice providers to serve as COLRs?

EQUAL submits that the Commission’s limited jurisdiction over market entry issues makes a mandate for cellular carriers to serve as COLRs unduly complicated and likely litigious. The Commission may allow a cellular carrier to volunteer to be a COLR, in the same way it allowed cellular carriers to obtain Eligible Telecom Carrier (“ETC”) status to serve as a Lifeline provider in California. EQUAL submits that cellular and fixed wireless providers should be

eligible to become replacement COLRs, so long as they can meet the technical, operational and financial requirements for COLRs.

R. 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?

As discussed above, EQUAL submits that cellular and fixed wireless providers may volunteer to become a replacement COLR and the Commission should grant such application so long as they meet the minimum required technical, operational and financial requirements. A volunteer wireless COLR must demonstrate it offers service with the same or better ubiquity and reliability as the existing COLR. Due to configuration differences between wireline and wireless, a wireless replacement COLR must demonstrate there are no single points of failure for power and communications for customer locations served by a single tower.

In the discussions of transferring COLR status to a new COLR, the focus has been on the cost of the plant/facilities and little focus has been placed on the cost to the new COLR of creating new ordering systems, billing systems, customer service systems and processes including providing customer notices, complying with service quality standards and reporting that are related to providing wireline services, complying with all of the reporting standards and regulatory requirements that come with providing wireline services.

At this point, it does not appear that a withdrawing COLR will be required to provide an incoming COLR with anything near a Turnkey operation. And as a withdrawing COLR may well intend to continue to use its existing systems to continue to operate their remaining business, it is not reasonable to expect that they will be turning over those systems to the incoming COLR. Therefore, a potential incoming COLR will be faced with the challenge of creating a myriad of new systems and processes and with creating a structure to deal with complying with multiple new regulatory operational and reporting requirements. They will have to start participating in

the Universal Service Programs. They will have to hire and train new staff. The incoming COLR faces a significant challenge in taking on the COLR status.

So, it is necessary that the Commission consider the potential cost to an incoming COLR to get up to up and running at a level where they are providing service to customers at a level that is acceptable to the Commission and consistent with applicable regulations. The Commission should consider the following questions:

- Is the Commission willing to provide subsidies, or grants or low-interest loans to support the incoming COLR in becoming compliant with Commission expectations and regulations?
- Are there existing funds, such as the California High-Cost Fund B, which can be used to support the transition of the incoming COLR?
- Should the Commission provide oversight during a specified period to support the successful transition of the incoming COLR?

EQUAL believes that it is necessary that these challenges be considered as part of this proceeding and that a process be designed for determining what the needs of the incoming COLR will be for a successful transition, what systems and resources the withdrawing COLR will be handing over as part of the transition, and what it will cost the incoming COLR to get up to full speed. The needs of the incoming COLR will vary depending on what type of carrier they are currently. The requirements imposed on the incoming COLR will also vary depending on what types and configurations of service they ultimately provide to the customers.

The Commission should want to make this critical financial information and a clear outline of the required customer service and regulatory responsibilities available to a potential incoming COLR so they can consider whether it is feasible for them to move forward with requesting COLR status. It will also inform the Commission as to the level of possible financial and technical assistance a potential incoming COLR might need to be successful and support the Commission's ultimate decision on the transfer of COLR status.

S. Should the Commission revise the requirements of basic service?

Some elements of basic service such as telephone directories and operator assistance may be of little value or use to consumers but EQUAL submits there is insufficient data to identify which elements should be revised to withdrawn.

T. Should the Commission revise the subsidy amount offered for participation in the California High-Cost Fund-B?²⁰ What is an appropriate subsidy amount and how should it be calculated?

EQUAL recommends that the subsidy amount should be reviewed and the CPUC should ensure that it matches the financial requirements to serve customers with landline service; the amount should take into account the most economically feasible technology that can support the required service quality. In addition to overt subsidies, the CPUC should consider requiring the existing COLR to assign its existing plant to a replacement COLR at remaining book value to enable the replacement COLR to serve; in many instances the existing plant will have been fully depreciated and therefore the assignment to a new COLR should be for a nominal charge. If COLR wants to withdraw due to claim it is not economically feasible to serve using copper technology, it should be required to make demonstration of the actual costs to install, operate and maintain copper.

The withdrawing COLR must provide assistance and facilitate incoming COLR, e.g. transfer fiber in good repair, transition fee. The COLR has to identify and disclose the plant that could be re-assigned as part of COLR withdrawal and the cost for the replacement COLR to acquire the plant.

²⁰ The available CHCF-B support for residential basic service in California has decreased since 1996, when it totaled \$352 million per year for all carriers to \$22 million in 2020–21.

U. 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?²¹

The experience in A.23-03-003 made clear that the Commission needs to issue concrete and clear requirements for customer notice of a proposed COLR withdrawal. In that case, AT&T's initial application and testimony did not provide granular information that allowed customers to determine whether they would be affected by AT&T's proposal to withdraw as a COLR. Two months later, on May 3, 2023, Judge Glegola issued a Ruling directing AT&T California to amend its application pointing out that the information provided in AT&T California's Application was deficient and therefore it prevented intervenors from identifying factual issues and raising disputed factual matters in their protests.²² Notably, the Ruling pointed out that AT&T California's failure to identify service areas that would be affected by its application to relinquish its COLR obligation, "[i]n essence . . . defeats the due process of notice to the public, intervenors and the Commission of the relief sought."²³

Instead, in response, AT&T California produced another mountain of documents detailing the census blocks where it sought relief from its COLR obligations²⁴ and the census blocks where it did not seek relief,²⁵ but not more familiar geographic areas such as zip codes.

The Assigned Commissioner's Scoping Memo and Ruling issued on November 21, 2023, noted, "Several parties at the PHC stated a need for the information to be presented in an easily

²¹ This question is identified as Issue k in the OIR.

²² Administrative Law Judge's Ruling Ordering Applicant to Amend Application Due to Substantial Incompleteness, Issued May 03, 2023, at p. 3.

²³ Administrative Law Judge's Ruling Ordering Applicant to Amend Application Due to Substantial Incompleteness, Issued May 03, 2023, at p. 3.

²⁴ Attachment D1 to the Third Declaration of Mark A. Israel, Census Blocks, Communities, Wire Centers, Exchanges, and Counties where AT&T Is Seeking Relief from Its COLR Obligations, filed May 17, 2023; see also, Attachment G to the Third Declaration of Mark A. Israel, Communities Where AT&T Is Seeking Relief from Its COLR Obligation In Whole or In Part, filed May 17, 2023.

²⁵ Attachment E1 to the Third Declaration of Mark A. Israel, Census Blocks Where AT&T is Currently NOT Seeking Relief from Its COLR Obligation, filed May 17, 2023.

discernible fashion, with AT&T agreeing that the extensive materials provided thus far may not be in an accessible format for members of the public.”²⁶ Thus, the Assigned Commissioner also ordered AT&T to identify the cities and towns that will be affected by its withdrawal as the COLR in a more granular and understandable form.

EQUAL recommends that notice should be provided at least 180 days prior to a COLR withdrawal. Customer notices should include a clear statement of zip codes that will be affected by COLR withdrawal request and include a list of replacement COLRs with contact information. If a COLR seeks to withdraw in only a portion of a zip code area, the COLR should provide a link to a mapping system that enables a customer to more clearly understand see if his or her address/location is affected.

V. If a COLR applies to withdraw, and a new COLR is designated, is there a need for a customer transition period? Duration of Transition Period.

EQUAL recommends that the Commission establish a transition process that includes well defined milestones and reporting requirements. It is almost certain that any replacement COLR will be smaller and have a more limited-service operation than the existing COLRs. Therefore, a transition period of at least one year should be established to ensure that the replacement COLR is prepared and has demonstrated ability to operate before the withdrawing COLR fully exits the market. During the transition period, the existing COLR should be required to provide technical and operational assistance to the replacement COLR.

Below are a few possible scenarios of what a new COLR might be taking on:

- a. a new COLR is currently a wireline carrier and is taking over, and will continue to offer, POTS;
- b. as part of this proceeding, a new mix of technology is adopted to replace

²⁶ Assigned Commissioner’s Scoping Memo and Ruling, issued November 21, 2023, at p. 3.

current landline services and the new COLR will be responsible for rolling out the new mix of technology;

- c. there is a mix of a and b and a new COLR will continue to offer POTS in some areas and will also be rolling out the new mix of technology in areas where that can be implemented.

None of the above scenarios would currently be reflected in a new COLR's current ordering system, billing system, customer service system and processes. The new COLR would need transition time to update/build new systems. Depending on the complexity of the changes that are being made to the services the new COLR will now be offering, the transition time needed could be significant.

Customers must be notified of the upcoming change and how it will impact their service, including options available to them after the withdrawing COLR exits the market. The withdrawing COLR and incoming COLR should both be required to have live customer service contact numbers that customers can call to get answers to their questions and concerns about these changes and their options.

IV. CONCLUSION

EQUAL submits that Californians in isolated areas depend on copper-based POTS for access to a variety of essential services, including first responders. The Commission should revise its COLR rules to ensure that a willing COLR is available to serve all areas of California with voice service. EQUAL submits that its proposal to establish a cooperative and orderly process for an existing COLR to withdraw by facilitating the entrance of a replacement COLR would accomplish this goal and should be adopted.

Respectfully Submitted,

/s/Anita Taff-Rice

iCommLaw
1547 Palos Verdes, #298
Walnut Creek, CA 94597
Phone: (415) 699-7885
Fax: (925) 274-0988
Email: anita@icommlaw.com
*Counsel for Empowering Quality Utility
Access for Isolated Localities (EQUAL)*