



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

FILED

10/30/24

04:59 PM

R2406012

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

Rulemaking 24-06-012
(Filed June 20, 2024)

**REPLY COMMENTS OF THE RURAL COUNTY REPRESENTATIVES OF CALIFORNIA
TO INITIAL PROPOSALS TO CONSIDER CHANGES TO THE COMMISSION'S CARRIER
OF LAST RESORT RULES**

TRACY RHINE

Senior Policy Advocate

Email: trhine@rcrcnet.org

Rural County Representatives of California

1215 K Street, Suite 1650

Sacramento, CA 95814

Tel: (916) 447-4806

LEIGH KAMMERICH

Policy Advocate

Email: lkammerich@rcrcnet.org

Rural County Representatives of California

1215 K Street, Suite 1650

Sacramento, CA 95814

Tel: (916) 447-4806

Dated: October 30, 2024

**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*

Rulemaking 24-06-012
(Filed June 20, 2024)

**REPLY COMMENTS OF THE RURAL COUNTY REPRESENTATIVES OF CALIFORNIA
TO INITIAL PROPOSALS TO CONSIDER CHANGES TO THE COMMISSION’S CARRIER
OF LAST RESORT RULES**

I. Introduction

Pursuant to Rule 6.2 of the California Public Utilities Commission (“Commission” or “CPUC”) Rules of Practice and Procedure, the Rural County Representatives of California (“RCRC”) submits comments to *Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, issued June 28, 2024. RCRC is an association of forty rural California counties, and our Board of Directors is comprised of an elected Supervisor from each of our member counties. RCRC was granted party status on July 25, 2024, via an e-mail ruling from Administrative Law Judge Thomas J. Glegola.

II. Discussion

Rural communities have fewer market-based options to choose high quality, affordable telecommunications services and often use Plain Old Telephone Service (POTS) as a personal safety net for reliable access to basic telephone service. This legacy infrastructure provides vital consumer protection standards to deliver basic service; such consumer protections should have uniform applicability and not marginalize large geographic areas, including high-cost rural areas. Carrier of Last Resort (COLR)

protections are the last line of defense to ensure basic service is available in hard to serve rural and vulnerable communities.

Communications technology are essential resources not only when disaster strikes, but also for educational opportunities, health care access, economic growth, and civic engagement. Generally, COLR relief should not perpetuate further inequity in high-cost areas to serve and hinder the ability for customers to access advanced services that sustain commerce in rural and remote areas. COLR providers are required to provide service to anyone that requests it, and must have the ability to do so, in cases such as new housing developments or restoration of service after a major storm or natural disaster. Non-COLR service providers, including wireless companies, may currently have infrastructure and provide access in a given area, but they are not required to do so and may discontinue service at any time. While RCRC is greatly interested in modernizing technological capabilities and deploying advanced technology to close the digital divide, we do not agree with removing COLR protections that are foundational to the safety net in our unserved and underserved communities, discussed in more detail below.

A. Necessity for Continued COLR Rules

Carrier of Last Resort (COLR) rules are still essential to ensure equitable access to telecommunications services for all Californians, particularly in rural, low-income, and underserved areas. Despite advances in telecommunications technology, COLR rules provide a critical safety net, ensuring that consumers who may not be served by market forces alone retain access to essential services. As several parties have emphasized, without COLR protections, many regions of California—especially geographically isolated and economically disadvantaged areas—would likely be underserved, or even entirely unserved, by telecommunications providers. As the Joint Commenters articulate, COLR requirements protect existing *and future* customers by guaranteeing everyone the ability to subscribe to basic service at any time.¹ EQUAL also states, “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.”²

¹ Page 10, *Initial Proposal of the Utility Reform Network, the Communications Workers of America, District 9, and the Center for Accessible Technology Regarding the Order Instituting Rulemaking to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024.

² Page 5, *Proposal of Empowering Quality Utility Access for Isolated Localities (“EQUAL”) for Changes to Carrier of Last Resort Rules in Order Instituting Rulemaking Proceeding*, September 30, 2024.

While maintaining COLR rules is foundational, there are opportunities to both retain the COLR construct as a safety-net floor, as well as update existing rules to reflect advancements in technology and shifts in consumer behavior. As noted by the Independent Small LECs³, the continued relevance and benefit of COLR rules in rural areas cannot be understated. These areas still lack competitive service options, and without COLR obligations, there is little economic incentive for carriers to provide services to these regions. Small Business Utility Advocates (SBUA) also highlight that Environmental and Social Justice (ESJ) communities, which often face disinvestment from service providers, would be disproportionately impacted by the removal of COLR obligations.⁴ In these areas, COLR rules also ensure that residents retain access to necessary telecommunications services, regardless of the profitability of their neighborhood.

Therefore, COLR is the last line of defense to ensure basic service is available in hard to serve rural and vulnerable communities. While changes to the COLR rules are warranted, wholesale COLR relief is a delicate balance that may need to be implemented gradually over time.

B. Modernizing the COLR Framework

As noted by Cal Advocates,⁵ customers should ultimately benefit from technology transitions. RCRC proposes the following considerations for changes to COLR rules.

1. Technology-Neutral Service Delivery

Among others, AT&T⁶ and Frontier Communications⁷ advocate for greater flexibility in the technologies that can be used to meet COLR requirements and argue that maintaining legacy copper-based POTS networks is inefficient, particularly in areas where other solutions can deliver better service at lower

³ Page 2, *Opening Comments of Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C) (“Independent Small LECS”) on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024.

⁴ Page 2, *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*, September 30, 2024.

⁵ Page 1, *Initial Proposal of the Public Advocates Office on the Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024.

⁶ Page 10, *Pacific Bell Telephone Company D/B/A AT&T California’s (U 1001 C) Opening Comments*, September 30, 2024.

⁷ Page 5, *Opening Comments of Frontier California Inc. (U 1002 C), Citizens Telecommunications Company of California Inc. DBA Frontier Communications of California (U 1024 C), Frontier Communications of the Southwest Inc. (U 1026 C) (“Frontier”) on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024.

costs. RCRC does not oppose carriers using modern technologies or next-generation networks; however, universal service must still be guaranteed and at a minimum be equivalent in call reliability and network resiliency. As telecommunications technology evolves, the definition of basic service should ensure that it meets the needs of modern consumers. While it is RCRC’s understanding that the CPUC already allows *any* carrier to use *any* technology to satisfy *any* obligation to provide basic service,⁸ practical solutions could assist the growing importance of broadband and other internet-based services and evolve certain criteria that is currently centered on legacy landline services.

Additionally, the nature of residential development in unincorporated rural counties is often individual landowners developing a single home on their parcel. Just as the 1936 federal Rural Electrification Act was instrumental in meeting the energy needs of rural customers, the ability to obtain communication services in these high-cost areas should still be met, and the additional funding necessary to do so should be discussed. Removing the COLR baseline would lead to perpetually unserved or underserved rural areas across private, undeveloped land.

2. Replacement COLRs

Such a network modernization away from POTS, however, also presents challenges. RCRC aligns with concerns raised by EQUAL that “existing service quality deficiencies for POTS could pose an insurmountable obstacle for potential replacement COLRs.”⁹ While incumbent local exchange carriers (ILECs) have persistently degenerated its legacy infrastructure¹⁰—subsidized by ratepayers—we have likely reached a breaking point where significant deferred maintenance issues are logistically infeasible to solve. While we support EQUAL’s suggestions that COLRs and replacement COLRs provide actual evidence to serve (tested from inside the home)¹¹ and for exiting COLRs to demonstrate regulatory compliance so a replacement COLR inherits a lawful and functional network,¹² we acknowledge this may not be achievable given the current state of POTS’ insurmountable maintenance issues. This should be addressed in a technical workshop. That said, any future planned infrastructure obsolescence schemes by

⁸ AT&T California, at page 12, also confirms the Commission’s intent for the establishment of a competitively neutral COLR regime.

⁹ EQUAL, page 15.

¹⁰ See Network Exam of AT&T and Frontier/Verizon, <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/network-performance-and-public-safety/network-exam-of-att-and-frontier-verizon?source=email>, accessed October 23, 2024.

¹¹ EQUAL, page 12.

¹² EQUAL, page 13.

carriers should not be tolerated by the Commission and updated COLR rules should include greater accountability measures as forementioned to preserve the public’s interest. COLR should not be weaponized to thwart technological advancements in hard to serve and/or high-cost areas.

Another key concern, raised by the Joint Commenters, is ensuring that new technologies—such as VoIP and wireless—meet the same reliability and emergency service access standards as traditional landline services.¹³ The Commission must ensure that any revised COLR rules include strict and enforceable service quality standards for all technologies, particularly in disaster-prone or high-risk areas where reliable communication is critical.

Lastly, RCRC supports providing replacement COLRs with financial subsidies and benefits that the exiting COLR receives. As suggested by EQUAL, “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 programs available to defray the cost of repairing or upgrading the exiting COLR’s facilities.”¹⁴

3. Revising Basic Service and Consumer Protections

Common sense updates to basic service should be considered, especially those that do not have equivalencies across technology types. As such, we agree with EQUAL that revisions to COLR’s basic service definitions should remove antiquated requirements such as operator services and directory assistance to facilitate competitive replacements.¹⁵ COLR rules should prioritize capturing safety net services, such as reliable access to 911 and N11 service. The Joint Commenters note the importance of capturing disability services to complete calls for emergency purposes.¹⁶ It may, however, be more appropriate to allow carriers to provide competitive, tangential consumer benefits and features which may evolve over time to meet consumer preferences.

The Joint Commenters also capture downstream effects and consequences that changes to COLR would have on, for example, medical alert devices, alarm services, or home detention.¹⁷ Carriers should

¹³ Joint Commenters, page 15.

¹⁴ EQUAL, pages 7-8.

¹⁵ EQUAL, page 15.

¹⁶ Joint Commenters, page 7.

¹⁷ Joint Commenters, pages 18-20.

have a responsibility to assist customers before, during, and after sunseting networks, including any potential POTS transition or replacement. EQUAL discusses the need for a nuanced approach:

“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.”¹⁸

4. COLR Guardrails

RCRC appreciates AT&T California’s goal that a redesigned COLR concept to be broadband access that can enable voice services.¹⁹ Modernizing COLR rules to facilitate newer replacement technology for POTS customers may need to consider a one-to-one replacement of copper for fiber. However, Frontier’s proposition that the Commission interpret, and thereby exclude, locations that are “unduly costly” from COLR rules underscores the vital importance of COLR rules and how they are crucial for rural and vulnerable communities.²⁰ And while RCRC appreciates the thoughtful criteria proposed by Cal Advocates to evaluate whether a COLR remains necessary,²¹ RCRC ultimately agrees with the California Farm Bureau²² and Joint Commenters²³ that COLR policies provide a necessary backstop and remains essential. *If* the Commission were to consider a scenario for COLR relief without a COLR replacement, nuanced policies should be put in place that preserve COLR in areas underserved by broadband,²⁴ and should also account for insufficient wireless coverage.

RCRC also supports the OIR’s rebuttable presumption standard²⁵ and placing the burden of proof for viable relinquishment on the carrier. Carriers must be able to demonstrate that any alternative technologies can provide the same level of reliability as traditional copper-based systems currently in use, especially during emergencies, like power outages. COLR obligations must continue to protect underserved and rural areas where market competition is insufficient by maintaining strict requirements for carriers to serve rural, low-income, and high-cost areas, and ensure that carriers do not self-select profitable regions while neglecting those most in need.

¹⁸ EQUAL, page 12.

¹⁹ Page 4.

²⁰ Frontier, page 3.

²¹ Cal Advocates, page 43

²² Page 9, *Comments of the California Farm Bureau Federation on the Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024.

²³ Joint Commenters, page 1.

²⁴ AT&T California, page 5.

²⁵ EQUAL, page 12.

COLR relief should not be a process for companies to abruptly abandon essential services, at the cost of public safety and consumer safeguards. Any COLR relief that is ultimately considered should have an address-level determination of affected households, with individual notices sent to those customers. For example, AT&T's Application (A.23-03-003) for relief was based on census blocks, where the effects were not uniform (e.g. up to 50% of households may not have any alternative service available) and impacts would be more severe. Similarly, the TDS Companies suggest COLR relief, through a Tier 3 Advice Letter, where only 80% of an area has access to an alternative service provider.²⁶ As noted by the Joint Commenters, COLR relief should not be done through the Advice Letter process, which is far less transparent and deliberative, and must be done through an Application process.²⁷ And each customer must have access to a guaranteed replacement service.²⁸

C. Hearings, Scope, Schedule, Categorization

RCRC supports the requests of several parties²⁹ to recategorize this proceeding as quasi-legislative. Reforming COLR rules requires a policy-driven approach; especially one that would enhance stakeholder and public participation opportunities. The Commission should also consider convening Working Groups within this proceeding to discuss technical issues with subject matter experts and/or key stakeholders. RCRC also supports various calls for workshops, such as:

- Identifying communities that rely on legacy POTS infrastructure,³⁰ and how to transition replacement COLRs;
- Customer transition/migration processes,³¹ including relevant notifications and support for device upgrades;
- Modernizing requirements of “basic service;”³²
- Reliability of POTS networks compared to alternative technologies;³³

²⁶ Page 1, *Opening Comments and Initial Proposals of Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C) and Winterhaven Telephone Company (U 1021 C) (The “TDS Companies”) on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024.

²⁷ Joint Commenters, page 42.

²⁸ Joint Commenters, page 43.

²⁹ See Independent Small LECs at page 4; Consolidated Communications at page 10; the TDS Companies at page 4.

³⁰ AT&T, page 34; EQUAL, page 9.

³¹ AT&T, page 34; Joint Commenters, page 54.

³² Joint Commenters, page 36.

³³ EQUAL, page 9.

- Technical requirements for transitioning ancillary services, such as fire alarms and security systems, from a POTS network to advanced technologies.³⁴

Workshops would foster a deeper understanding of the complexities involved in facilitating replacement COLR providers, including any POTS network innovations, transitions, and/or replacements.

Lastly, we too agree this proceeding needs additional public input and the Commission should schedule public participation hearings.³⁵ We urge the Commission to conduct such public hearings in areas dependent on POTS and without sufficient wireless coverage.

III. Conclusion

RCRC supports the evolution of more advanced telecommunications technologies that provide reliability, redundancy and ubiquitous access to connectivity for voice service. The continued necessity of COLR rules, coupled with opportunities for modernization, presents an opportunity for the Commission to adapt its regulations to better serve all Californians. By adopting a more technology-neutral framework, updating the basic service definition, and ensuring robust consumer protections, the Commission can both improve service quality and maintain universal access in a rapidly changing telecommunications environment. These revisions should ensure that all Californians, particularly those in rural, underserved, and disaster-prone areas, continue to receive the essential services they need to thrive.

Respectfully submitted,

/s/ Leigh Kammerich

Leigh Kammerich

Policy Advocate

Rural County Representatives of California

Tel: (916) 447-4806

E-mail: lkammerich@rcrcnet.org

Dated: October 30, 2024

³⁴ EQUAL, page 9; Cal Advocates, page 59, “The Commission should consider adopting additional requirements that may protect interconnectors that rely on copper networks subject to proposed retirement and their customers.”

³⁵ Joint Commenters, page 63.