

**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  
(Filed June 20, 2024)

**PACIFIC BELL TELEPHONE COMPANY D/B/A  
AT&T CALIFORNIA'S (U 1001 C) REPLY COMMENTS**

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## TABLE OF CONTENTS

I.	INTRODUCTION AND EXECUTIVE SUMMARY.....	1
II.	THE OPENING COMMENTS REVEAL SUBSTANTIAL AREAS OF AGREEMENT.....	6
A.	The COLR Obligations Should End in Areas Well-Served by Broadband.....	7
B.	Populated Areas That Are Not Well-Served with Broadband Raise More Complex Issues.....	16
1.	One-size-fits all COLR obligations are not appropriate throughout the state.....	16
2.	CHCF-B Fund support amounts should be revised to encourage voluntary participation of providers in high-cost areas.....	18
C.	The Commission Should Hold Constructive Time-Bound Workshops.....	19
D.	Federal Law Prevents States from Regulating Fixed Broadband, VoIP, or Mobile Wireless Service.....	19
III.	THE COMMISSION SHOULD PROMPTLY ELIMINATE COLR OBLIGATIONS IN AREAS THAT ARE WELL-SERVED WITH BROADBAND AND AREAS WITHOUT PEOPLE BEFORE FOCUSING ON SOLUTIONS FOR OTHER AREAS.....	21
A.	The Initial Phase Should Focus on Areas Well-Served with Broadband and Areas Without Population.....	22
B.	In a Second Phase, the Commission Should Develop a Modern Solution for Populated Areas Not Well-Served with Broadband.....	28
IV.	THE COMMISSION SHOULD DEVELOP APPROPRIATE RULES FOR CUSTOMER NOTICE AT THE END OF EACH STAGE.....	29
V.	THE COMMISSION SHOULD REJECT PROPOSALS THAT IGNORE THE MODERN BROADBAND ERA.....	31
A.	Expanding the COLR Obligations in Well-Served Areas Is Unnecessary To Protect the Communications Safety Net and Would Harm Californians.....	32
B.	Other Initiatives Offer Better Ways To Achieve the Goal of Expanding Broadband Access Than Increasing the Requirements on Existing COLRs.....	36
C.	An Unduly Lengthy and Burdensome COLR Relinquishment Process Would Delay the Benefits of COLR Reform.....	40
D.	The Commission Should Narrowly Scope the Issues in This Proceeding To Focus on Reform of the COLR Obligations.....	41
VI.	CONCLUSION.....	43

**Table of Authorities**

	<b>Page(s)</b>
<b>Federal Cases</b>	
<i>Charter Advanced Servs, LLC v. Lange</i> , 903 F.3d 715 (8th Cir. 2018), <i>cert denied</i> , 140 S. Ct. 6 (2019).....	20
<i>Minn. Pub. Utils. Comm’n v. FCC</i> , 483 F.3d 570 (8th Cir. 2007) .....	20
<b>Regulatory Cases</b>	
<i>Alt. Regul. Frameworks for Loc. Exch. Carriers</i> , D.89-10-031, 1989 Cal. PUC LEXIS 576 (1989).....	35
<i>Greyhound Lines, Inc.</i> , D.95-01-046, 1995 Cal. PUC LEXIS 45 (Jan. 24, 1995).....	15
<i>Application of Cal.-Am. Water Co. (U210W) for Authorization To Increase Its Revenues for Water Serv. in Its Monterey Dist. by \$24,718,200 or 80.30% in the Year 2009; \$6,503,900 or 11.72% in the Year 2010; &amp; \$7,598,300 or 12.25% in the Year 2011 Under the Current Rate Design &amp; To Increase Its Revenues for Water Serv. in the Toro Serv. Area of Its Monterey Dist. by \$354,324 or 114.97% in the Year 2009; \$25,000 or 3.77% in the Year 2010; &amp; \$46,500 or 6.76% in the Year 2011 Under the Current Rate Design; &amp; Related Matters</i> , D-09-07-021, 2009 Cal. PUC LEXIS 346 (Jan. 30, 2008) .....	15
<i>Application of S. Cal. Gas Co. (U 904 G) for Authorization To Increase Rates Charged for Gas Serv. Based on Test Year 1994 &amp; To Include an Attrition Allowance for 1995 &amp; 1996</i> , D.93-12-043, 1993 Cal. PUC LEXIS 728 (Dec. 17, 1993) .....	15
Cal. Pub. Utils. Comm’n Resol. T-17388 (Feb. 28, 2013) .....	24
Cal. Pub. Utils. Comm’n Resol. T-17467 (Aug. 13, 2015) .....	24
Cal. Pub. Utils. Comm’n Resol. T-17587 (Mar. 1, 2018).....	24
Cal. Pub. Utils. Comm’n Resol. T-17729 (June 3, 2021).....	24
<i>Decision Dismissing with Prejudice the Application of AT&amp;T Cal. To Withdraw as a Carrier of Last Resort</i> , D.24-06-024, 2024 Cal. PUC LEXIS 331 (June 25, 2024).....	41
<i>Implementation of Sections 3(n) and 332 of the Commc’ns Act Regul. Treatment of Mobile Servs.</i> , 9 FCC Rcd. 1411 (1994).....	21

<i>Ord. Instituting Investigation into the State of Competition Among Telecomm. Providers in Cal., &amp; To Consider &amp; Resolve Questions Raised in the Ltd. Rehearing of Decision 08-09-042, D.16-12-025, 2016 Cal. PUC LEXIS 683 (Dec. 1, 2016)</i> .....	10, 12
<i>Ord. Instituting Rulemaking Proceeding To Consider Amendments to Gen. Ord. 133, R.22-03-016, 2022 Cal. PUC LEXIS 94 (Mar. 22, 2022)</i> .....	42
<i>Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules, R.24-06-012, 2024 Cal. PUC LEXIS 359 (June 28, 2024)</i> .....	<i>passim</i>
<i>Ord. Instituting Rulemaking Regarding Revisions to the Cal. High Cost Fund B Program, D.12-12-038, 2012 Cal. PUC LEXIS 597 (Dec. 20, 2012)</i> .....	2, 21
<i>Pol’y &amp; Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Commc’ns Act of 1934, as Amended, 11 FCC Rcd. 20730 (1996)</i> .....	21
<i>Red Top Cogeneration Project, L.P., v. Pac. Gas &amp; Elec. Co., D.96-06-030, 1996 Cal. PUC LEXIS 699 (June 6, 1996)</i> .....	15
<i>Rulemaking on Comm’n’s Own Motion into Universal Serv. &amp; To Comply with the Mandates of Assembly Bill 3643, D.96-10-066, 1996 Cal. PUC LEXIS 1046 (Oct. 25, 1996)</i> .....	22, 32
<i>Tech. Transitions, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd. 8283 (2016)</i> .....	11, 12
<i>Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Ord. of the Minn. Pub. Utils. Comm’n, Memorandum Opinion and Order, 19 FCC Rcd. 22404 (2004)</i> .....	20, 21

**Statutes**

47 U.S.C. § 214(a) .....	31
Cal. Pub. Util. Code	
§ 276.5.....	18
§ 1701.5(b).....	41

**Rules**

47 C.F.R.	
§ 9.10.....	12

§ 54.405(a) .....24

§ 63.602.....12

**Legislative Materials**

A.B. 2797, 2024 Leg. § 2, 2023-2024 Regular Sess. (Cal. 2024),  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240AB2797](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2797) .....27

**Docket Filings & Exhibits**

Comments of the Cal. Farm Bureau Fed’n on the Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 3 (filed Sept. 30, 2024) .....2

Comments of the Cal. Broadband & Video Ass’n on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules at 3 (filed Sept. 30, 2024) ..... *passim*

Comments of CTIA on Ord. Instituting Rulemaking (filed Sept. 30, 2024) .....20

Comments of EMF Safety Network (filed Sept. 30, 2024) .....30

Declaration of Mark A. Israel on Behalf of AT&T (Sept. 30, 2024) ..... *passim*

Initial Proposal of The Pub. Advocs. Off. on the Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules (filed Sept. 30, 2024) ..... *passim*

Initial Proposal of The Util. Reform Network, The Commc’ns Workers of Am., Dist. 9, & The Ctr. for Accessible Tech. Regarding the Ord. Instituting Rulemaking To Consider Changes to the Comm’n’s Carrier of Last Resort Rules (filed Sept. 30, 2024) ..... *passim*

Opening Comments & Initial Proposals of Happy Valley Tel. Co. (U 1010 C), Hornitos Tel. Co. (U1011 C), & Winterhaven Tel. Co. (U 1021 C) (the “TDS Companies”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules at 2 (filed Sept. 30, 2024) ..... *passim*

Opening Comments of Calaveras Tel. Co. (U 1004 C), Cal-Ore Tel. Co. (U 1006 C), Ducor Tel. Co. (U 1007 C), Foresthill Tel. Co. (U 1009 C), Kerman Tel. Co. (U 1012 C), Pinnacles Tel. Co. The Ponderosa Tel. Co. ( U 1014 C), Sierra Tel. Co., Inc. (U 1016 C), The Siskiyou Tel. Co. (U 1017 C), Volcano Tel. Co. (U 1019 C) .....19

Opening Comments of Consolidated Commc’ns of Cal. Co. (U 1015 C) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules (filed Sept. 30, 2024) ..... *passim*

Opening Comments of Frontier Cal. Inc. (U 1002 C) Citizens Telecomms. Co. of Cal. Inc. DBA Frontier Commc’ns of Cal. (U 1024 C) Frontier Commc’ns of the Sw. Inc. (U 1026 C) (“Frontier”) .....2

Pac. Bell Tel. Co. d/b/a AT&T Cal.’s (U 1001 C) Opening Comments (filed Sept. 30, 2024) ..... *passim*

Proposal of Empowering Quality Util. Access for Isolated Localities (“EQUAL”) for Changes to Carrier of Last Resort Rules in Ord. Instituting Rulemaking Proceeding (filed Sept. 30, 2024) ..... *passim*

Proposal of Small Bus. Util. Advocs. in Response to the Questions in the Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules (filed Sept. 30, 2024) .....17

R.22-03-016, Comments of the Cal. Cable & Telecomms. Ass’n in Response to Admin. L. Judge’s Ruling Requesting Comments on Network Examination & ARMIS Reporting attach. A (*Out of Sync: Outdated Financial and Operational Reporting for Competitive VoIP Providers*) (filed Dec. 21, 2022) .....10

Reply Declaration of Mark A. Israel on Behalf of AT&T (Oct. 30, 2024) ..... *passim*

Response of USTelecom - The Broadband Ass’n on the Ord. Instituting Rulemaking Proceeding To Consider Changes to Carrier of Last Resort Rules (filed Sept. 30, 2024) ..... *passim*

**Periodical Publications**

*Barely a Quarter of Americans Still Have Landlines. Who Are They?*, Wash. Post (June 23, 2023), <https://www.washingtonpost.com/business/2023/06/23/landline-telephone-holdouts/> .....13

Yanitsa Boyadzhieva, *TalkTalk Finds Fibre Networks Will Cost the Planet Much Less Than Copper*, TelecomTV (Apr. 8, 2022), <https://www.telecomtv.com/content/sustainability/talktalk-finds-fibre-networks-will-cost-the-planet-much-less-than-copper-44136/> .....33

**Non-Periodical Publications**

*ABI Research Identifies 30 Sustainability Action Items for Telco Operators*, ABI Rsch. (Apr. 21, 2022), <https://www.abiresearch.com/press/purchasing-renewable-energy-removes-co2-emissions-equal-to-20-million-barrels-of-oil-a-year-for-leading-telco-operators/> .....33

<i>About the Lifeline Program</i> , TruConnect, <a href="https://www.truconnect.com/program/about-lifeline">https://www.truconnect.com/program/about-lifeline</a> (last visited Oct. 14, 2024) .....	24
<i>Broadband Data Collection</i> , FCC, <a href="https://www.fcc.gov/BroadbandData">https://www.fcc.gov/BroadbandData</a> (last updated June 25, 2024) .....	28
<i>Broadband Equity, Access, and Deployment Program</i> , BroadbandUSA, Nat’l Telecomms. & Info. Admin., <a href="https://broadbandusa.ntia.doc.gov/broadband-equity-access-and-deployment-bead-program#:~:text=The%20Broadband%20Equity%2C%20Access%2C%20and,and%20the%20Commonwealth%20of%20the">https://broadbandusa.ntia.doc.gov/broadband-equity-access-and-deployment-bead-program#:~:text=The%20Broadband%20Equity%2C%20Access%2C%20and,and%20the%20Commonwealth%20of%20the</a> (last visited Oct. 15, 2024) .....	37
<i>Broadband Mapping Program</i> , Cal. Pub. Utils. Comm’n, <a href="https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program#:~:text=The%20California%20Public%20Utilities%20Commission,service%20providers%20in%20their%20area">https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program#:~:text=The%20California%20Public%20Utilities%20Commission,service%20providers%20in%20their%20area</a> (last visited Oct. 15, 2024).....	28
<i>Broadband Speed Guide</i> , FCC, <a href="https://www.fcc.gov/consumers/guides/broadband-speed-guide">https://www.fcc.gov/consumers/guides/broadband-speed-guide</a> (last updated July 18, 2022).....	38
Cal. Pub. Utils. Comm’n, <i>California Broadband Data Processing and Validation</i> (2020), <a href="https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-mapping/california-broadband-data-processing-and-validation--2021-v22.pdf">https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-mapping/california-broadband-data-processing-and-validation--2021-v22.pdf</a> .....	14, 28
Cal. Pub. Utils. Comm’n, <i>Environmental &amp; Social Justice Action Plan Version 2.0</i> (2022), <a href="https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf">https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf</a> .....	34
<i>California High Cost Fund B Fact Sheet</i> , Cal. Pub. Utils. Comm’n (2024), <a href="https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/high-cost-support-and-surcharges/chcf-b/chcf-b-fact-sheet.pdf">https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/high-cost-support-and-surcharges/chcf-b/chcf-b-fact-sheet.pdf</a> .....	18
<i>California LifeLine Related Forms and Notices for Carriers</i> , Cal. Pub. Utils. Comm’n, <a href="https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/lifeline/lifeline-related-forms-and-notices-for-service-providers">https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/lifeline/lifeline-related-forms-and-notices-for-service-providers</a> (last visited Oct. 14, 2024).....	24
<i>DIRECTV To Acquire EchoStar’s Video Distribution Business, Including Dish TV and Sling TV</i> (Sept. 30, 2023), <a href="https://www.directv.com/insider/directv-and-dish/">https://www.directv.com/insider/directv-and-dish/</a> .....	24

*DP02: Selected Social Characteristics in the United States*, U.S. Census Bureau,  
<https://data.census.gov/table/ACSDP1Y2023.DP02?q=california%20household%202023> (last visited Oct. 15, 2024).....25

*DP05: ACS Demographic and Housing Estimates*, U.S. Census Bureau,  
<https://data.census.gov/table?q=california%20population%202023> (last visited Oct. 14, 2024).....25

*DP1: Profile of General Demographic Characteristics: 2000*, U.S. Census Bureau,  
<https://data.census.gov/table/DECENNIALDPAIAN2000.DP1?q=california%20population%202000> (last visited Oct. 14, 2024) .....25

*FCC Nat’l Broadband Map*, FCC, [https://broadbandmap.fcc.gov/area-summary/fixed?version=dec2023&geoid=06&type=state&zoom=4.96&vlon=-119.306607&vlat=37.418961&br=r&speed=100\\_20&tech=1\\_2\\_3\\_4\\_5\\_6\\_7\\_8](https://broadbandmap.fcc.gov/area-summary/fixed?version=dec2023&geoid=06&type=state&zoom=4.96&vlon=-119.306607&vlat=37.418961&br=r&speed=100_20&tech=1_2_3_4_5_6_7_8) (last updated Aug. 6, 2024).....10

Javier Gil Gómez et al., *The Growing Imperative of Energy Optimization for Telco Networks*, McKinsey & Co. (Feb. 23, 2024), <https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/the-growing-imperative-of-energy-optimization-for-telco-networks> .....33

*Government Discount Programs Can Cut Big Dollars Off Your Cellular Plan*, Tracfone, <https://www.tracfone.com/gdp> (last visited Oct. 14, 2024).....24

Kristen Hollis & Trisha Jandoc, *How Much Internet Speed Should You Be Paying for?*, CNET (Oct. 15, 2024), <https://www.cnet.com/home/internet/how-much-internet-speed-do-you-really-need/>.....38

*How Much Bandwidth Does Skype Need?*, Microsoft, <https://support.microsoft.com/en-us/skype/howmuch-bandwidth-does-skype-need-ad0fa9d7-c6ce-44ed-a3cd-5ea982df6e2a> (last visited Oct. 11, 2024).....38

*Internet for All, FCC Mapping Overview and Guide*, <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-08/IFA-FCC-Mapping-Overview-and-Guide.pdf> (last visited Oct. 7, 2024).....14

Joint Venture Silicon Valley, *Protecting California in the 21st Century* (2024), <https://jointventure.org/images/stories/pdf/public-safety-report.pdf>).....13

Nat’l Telecomms. & Info. Admin., U.S. Dep’t of Com., *Notice of Funding Opportunity: Broadband Equity, Access, and Deployment Program* (2022).....38



Karim Taga et al., Arthur D. Little, *Copper Switch Off: Opportunity To Drive Infrastructure Coverage?* (2021),  
[https://www.adlittle.com/sites/default/files/reports/ADL\\_Copper\\_SwitchOff.pdf](https://www.adlittle.com/sites/default/files/reports/ADL_Copper_SwitchOff.pdf).....33

U.S. Census Bureau, *2000 Census of Population and Housing, Summary Population and Housing Characteristics, PHC-1-6, California* (2002),  
<https://www2.census.gov/library/publications/2002/dec/phc-1-6.pdf>.....25

*Voice Connectivity Requirements*, Google Help,  
<https://support.google.com/a/answer/9206518?hl=en#zippy=%2Cbandwidthrecommendation-per-participant> (last visited Oct. 11, 2024) .....38

Barry Walton, *Cost Calculations of Fiber and Copper*, Corning,  
<https://www.corning.com/fiber-to-the-premise/worldwide/en/home/knowledge-center/cost-calculations-of-fiber-and-copper.html> (last visited Oct. 15, 2024).....33

*What Is the Lifeline Assistance Program?*, Assurance Wireless,  
<https://www.assurancewireless.com> (last visited Oct. 14, 2024).....24

Tom Wheeler, Chairman, FCC, Prepared Remarks of FCC Chairman Tom Wheeler, The Brookings Institution (June 26, 2015),  
<https://docs.fcc.gov/public/attachments/DOC-334141A1.pdf>.....33

*Why Choose Infiniti Mobile?*, Infiniti Mobile, <https://infinitimobile.com> (last visited Oct. 14, 2024).....24

Robert Wyrzykowski, *5G Fixed Wireless Access (FWA) Success in the US: A Roadmap for Broadband Success Elsewhere?*, Opensignal (June 6, 2024),  
<https://www.opensignal.com/2024/06/06/5g-fixed-wireless-access-fwa-success-in-the-us-a-roadmap-for-broadband-success-elsewhere>.....40

*Zoom System Requirements: Windows, macOS, Linux*, Zoom Support,  
[https://support.zoom.com/hc/en/article?id=zm\\_kb&sysparm\\_article=KB0060748](https://support.zoom.com/hc/en/article?id=zm_kb&sysparm_article=KB0060748) (last visited Oct. 11, 2024).....38

Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) (“AT&T California”) respectfully submits these Reply Comments in response to the Order Instituting Rulemaking Proceeding To Consider Changes to the Commission’s Carrier of Last Resort Rules.<sup>1</sup>

## **I. INTRODUCTION AND EXECUTIVE SUMMARY**

Nearly all commenters agree that it is time for the Commission to reform its carrier of last resort (“COLR”) obligations to align with the current broadband landscape. Since the Commission adopted the COLR obligations in 1996, the telecommunications industry has undergone significant transformation due to increased competition, the emergence of new technologies and services, and evolving consumer preferences. Today, more than 95 percent of households in AT&T California’s service territory fulfill their voice service needs with something other than COLR-mandated basic service. Yet, the COLR obligations remain unchanged.

AT&T California’s initial proposals aim to establish a collaborative framework for addressing universal service objectives in the context of 21st-century technological advancements and competition. As explained in its opening comments, AT&T California recommends that the Commission reevaluate the one-size-fits-all COLR obligations and refine them for three distinct categories of communities in the state: (i) areas that are well-served with broadband<sup>2</sup> today because consumers with broadband service have access to voice services; (ii) areas where there are no population, no current COLR basic telephone service<sup>3</sup> customers,

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<sup>1</sup> *Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules*, R.24-06-012, 2024 Cal. PUC LEXIS 359 (June 28, 2024) (“OIR”).

<sup>2</sup> As in its opening comments, AT&T California uses “broadband” to refer to both fixed and mobile broadband, absent an express reference to one or the other.

<sup>3</sup> AT&T California’s POTS service is an example of basic service. As noted in the *OIR*, 2024 Cal. PUC LEXIS 359, at \*2, basic service was last defined by the Commission in 2012, *see Ord. Instituting*

and no serviceable locations according to the Federal Communications Commission’s (“FCC”) National Broadband Map; and (iii) populated areas that are not well-served with broadband today.

The filed comments from a diverse range of parties reveal substantial areas of agreement. After describing extensive deployment of broadband networks and robust competition for broadband services, various parties explain that COLR obligations generally are not needed in such well-served areas. Multiple parties recognize that the presence of broadband service also guarantees access to voice services and, thus, eliminating legacy obligations will not leave customers without communications services. Parties also underscore that there is a clear preference among consumers for voice over broadband instead of POTS service, highlighting the benefits that modern technologies offer compared to outdated networks. Multiple parties rely on the Commission’s broadband maps, the FCC’s National Broadband Map, or both to measure broadband service coverage throughout the state, recognizing that government maps are the best available source of broadband coverage data. AT&T California strongly supports all these points.

Given this agreement and the natural delineation between different solutions for different types of communities, various parties propose that the Commission adopt a staged approach to this proceeding.<sup>4</sup> AT&T California agrees and respectfully suggests that the Commission focus

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*Rulemaking Regarding Revisions to the Cal. High Cost Fund B Program*, D.12-12-038, 2012 Cal. PUC LEXIS 597, at \*88–97 app. A (Dec. 20, 2012) (“2012 CPUC Decision”).

<sup>4</sup> See, e.g., Opening Comments of Frontier Cal. Inc. (U 1002 C) Citizens Telecomms. Co. of Cal. Inc. DBA Frontier Commc’ns of Cal. (U 1024 C) Frontier Commc’ns of the Sw. Inc. (U 1026 C) (“Frontier”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 1–2 (filed Sept. 30, 2024) (“Frontier Opening Comments”) (suggesting that the Commission prioritize COLR relief in urban and suburban markets where there is sufficient voice competition); Opening Comments of Consolidated Commc’ns of Cal. Co. (U 1015 C) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 5–6 (filed Sept. 30, 2024) (“Consolidated Opening Comments”) (suggesting that the Commission can provide COLR relief in areas where there is “robust competition for voice service”); Comments of the Cal. Farm Bureau Fed’n on the Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 3 (filed Sept. 30, 2024) (“Farm Bureau Opening Comments”) (recommending that the Commission

first on ending the COLR obligations (and removing basic service tariffs) in areas that are already well-served by broadband, where COLR obligations are inarguably unnecessary. Other ILECs, like Frontier, agree that there are some areas that no longer require COLR obligations. As part of this topic, this initial phase should consider whether there are a small number of local communities that—because of their distinctive factors—continue to have a compelling need for a safety-net voice service for emergencies, addressing whether and how removal of COLR obligations will have any material impact on the availability of voice service. This initial phase should also result in the removal of COLR obligations in areas with no population, no current COLR basic telephone service customers, and no serviceable locations. Additionally, the Commission should establish a clear and straightforward mechanism for removing COLR obligations in areas that subsequently become well-served with broadband, including areas receiving state and/or federal funding for broadband. Importantly, the removal of the COLR obligation will not end the provision of basic service until the ILEC also satisfies the federal Section 214 discontinuance requirements. Then, in a second phase, the Commission should develop a modernized solution for populated areas that are not yet well-served with broadband. At each stage, AT&T California recommends that the Commission convene constructive, time-bound workshops structured to build consensus on particular issues.

There is also widespread agreement on the importance of customer notices and a well-thought-out transition process when a COLR discontinues services. However, the Public Advocates Office (“Cal Advocates”); The Utility Reform Network, the Communications

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revise the COLR obligations incrementally); Response of USTelecom – The Broadband Ass’n on the Ord. Instituting Rulemaking Proceeding To Consider Changes to Carrier of Last Resort Rules 5–6 (filed Sept. 30, 2024) (“USTelecom Opening Comments”) (suggesting that COLR relief can first be provided in areas where “there are multiple carriers offering similar network-based voice services at competitive prices”).

Workers of America, District 9, and the Center for Accessible Technology (“Joint Commenters”); Empowering Quality Utility Access for Isolated Localities (“EQUAL”); the Small Business Utility Advocates (“SBUA”); and EMF Safety Network have proposed detailed prescriptions for customer notices and transition plans. AT&T California respectfully submits that it is premature to consider these wide-ranging proposals until the Commission decides what the COLR obligations will be going forward. Accordingly, AT&T California recommends that, at the end of each stage of the proceeding, the Commission hold a workshop to address customer notices and, to the extent applicable, transitions to another service. In considering customer notice requirements, AT&T California offers these guiding principles: (1) customer notices should be clear, relevant, and timely to avoid customer confusion; (2) customer notices should focus on conveying relevant information about a change in a customer’s service; and (3) the information relevant to customers will vary depending on the nature of the service change. Removal of the COLR obligations in and of itself will not allow a carrier to stop providing basic telephone service. A notice suggesting otherwise would be misleading and would foster unnecessary customer anxiety and confusion. Rather, the carrier also must satisfy the discontinuance requirements of Section 214 *before* it may withdraw basic telephone service. Conversely, if carriers fail to provide appropriately informative notices to their customers, they risk losing goodwill—and the customers. The Commission thus should limit required notices to those announcing a service discontinuance or a change of service and give carriers leeway on phrasing to ensure clarity for their customers.

Finally, in these reply comments, AT&T California addresses several proposals by Cal Advocates, Joint Commenters, and other parties that are inconsistent with the modern broadband era. COLR obligations were developed at a time when there was essentially a single provider of

telephone service. That condition no longer holds today for the vast majority of California households, which can be served by multiple competing broadband providers. In those areas, generally, COLR-type obligations no longer make sense. Yet, several parties' proposals to expand and prolong COLR obligations, particularly in areas where they are unnecessary for a safety net, would adversely affect Californians. Maintaining COLR obligations where they are superfluous would divert resources from vital broadband investments to outdated TDM networks, which are increasingly unwanted by consumers. It would not only stifle competition by arbitrarily constraining ILECs alone but also result in unnecessary operational costs and increased environmental harm due to prolonged use of copper networks. California does not need to go down that path.

Rather, as AT&T California explains further below, other initiatives offer better ways to achieve the state's broadband deployment goals than expanding the requirements on existing COLRs, as some commenters advocate. For instance, proposals to require the designated COLR—alone among competitors—to deploy broadband ignore the other federal and state programs intended to make broadband ubiquitous. Similarly, requiring COLRs to deploy broadband everywhere before seeking to withdraw—as Cal Advocates proposes—is illogical as a matter of telecommunications policy and economics. Other proposals to subject COLRs to unduly lengthy and burdensome processes to terminate their designations, even in areas already well-served by broadband, would lock in the status quo and delay the benefits of modern communications for years; these proposals lack justification under current marketplace circumstances.

AT&T California has organized the rest of these reply comments as follows: In Section II, AT&T California discusses the substantial areas of agreement that emerge from the opening

comments. In Section III, AT&T California describes how the Commission should stage this proceeding, promptly eliminating COLR obligations in areas that are well-served with broadband and in areas without people before focusing on solutions for other areas. In Section IV, AT&T California explains why it would be premature to determine customer notice requirements before the Commission has determined how to implement COLR reform and offers principles to ensure appropriate customer notices. In Section V, AT&T California encourages the Commission to reject proposals that ignore the modern broadband era.

## **II. THE OPENING COMMENTS REVEAL SUBSTANTIAL AREAS OF AGREEMENT.**

The opening comments helpfully establish substantial areas of agreement among the parties. Several parties acknowledge the extensive deployment of broadband networks and robust competition for broadband services in many parts of the state. They also recognize that ongoing deployments, funded by private capital as well as public programs to extend broadband to hard-to-reach places, will provide consumers with additional options. Commenters generally agree that the availability of broadband services means consumers also have access to a variety of voice services; therefore, eliminating legacy COLR obligations in areas well-served by broadband generally will not leave consumers without a communications safety net. To the contrary, the evidence reveals that consumers overwhelmingly prefer voice carried over broadband services as compared to POTS. At the same time, most commenters recognize that a one-size-fits-all solution may not meet customer requirements across California's diverse regions. These and other areas of alignment serve as a strong basis for the Commission and participants in this proceeding to collaborate on reforming the COLR obligations to reflect 21st-century needs.

**A. The COLR Obligations Should End in Areas Well-Served by Broadband.**

Multiple parties describe widespread broadband access and intermodal competition throughout California and explain that COLR obligations are not needed in such well-served areas.<sup>5</sup> CalBroadband states, for example, that “COLR obligations have become increasingly outdated in areas where a competitive, multi-modal market exists for voice service, likely rendering COLR obligations unnecessary on a statewide or service-area-wide basis.”<sup>6</sup> The TDS Companies point out that intermodal voice competition has increased since the COLR regime was adopted nearly 30 years ago,<sup>7</sup> concluding that “COLRs are unnecessary in today’s competitive intermodal voice marketplace.”<sup>8</sup> USTelecom explains that the basic voice service COLR obligations are no longer appropriate in today’s competitive environment.<sup>9</sup>

The COLR obligations historically were a means to provide all consumers with voice service during the transition period after the monopoly era. And today, in areas that are well-served with broadband, voice service is ubiquitously available, and no COLR providing basic

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<sup>5</sup> See, e.g., Comments of the Cal. Broadband & Video Ass’n on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 3 (filed Sept. 30, 2024) (“CalBroadband Opening Comments”) (“This multi-modal competition ensures that the vast majority of Californians are well-served by a choice of voice providers and services irrespective of any COLR requirements.”); USTelecom Opening Comments at 2 (filed Sept. 30, 2024) (“With the introduction and rapid adoption by consumers of intermodal voice alternatives, traditional telephone service is now a very small part of the communications marketplace. Where there is an adequate voice alternative, there is no longer a need to require ANY one company to maintain a COLR obligation....”). Unlike the electricity market, where competing producers all use the incumbent’s distribution network, telecommunications evolved to competition among multiple facilities-based providers with their own distribution networks as well as resellers of those networks.

<sup>6</sup> CalBroadband Opening Comments at 5.

<sup>7</sup> Opening Comments & Initial Proposals of Happy Valley Tel. Co. (U 1010 C), Hornitos Tel. Co. (U1011 C), & Winterhaven Tel. Co. (U 1021 C) (the “TDS Companies”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 2 (filed Sept. 30, 2024) (“TDS Companies Opening Comments”).

<sup>8</sup> *Id.*

<sup>9</sup> USTelecom Opening Comments at 2 (“With the introduction and rapid adoption by consumers of intermodal voice alternatives, traditional telephone service is now a very small part of the communications marketplace.”).



service is needed as a general rule.<sup>10</sup> For those areas, the Commission should reform its COLR and basic service rules while caring for certain local communities that may continue to need safety-net voice services, as explained by CalBroadband,<sup>11</sup> Frontier,<sup>12</sup> TDS Companies,<sup>13</sup> USTelecom,<sup>14</sup> and others. By prioritizing consumer needs and embracing modern technologies, the Commission can ensure a future where communication services are accessible, reliable, and tailored to the needs of all Californians.

*Most parties agree that many areas of California are now well-served by broadband providers.* As AT&T California explains in its opening comments, substantial portions of California’s population have reliable high-speed broadband services available, with nearly all serviceable locations in AT&T California’s service territory able to receive broadband service according to the latest FCC Broadband Data Collection data.<sup>15</sup> Almost as many locations offer the choice of multiple voice providers.<sup>16</sup> CalBroadband highlights that 98.9 percent of Californians are covered by four or more voice providers, 99.6 percent are covered by three or

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<sup>10</sup> Pac. Bell Tel. Co. d/b/a AT&T Cal.’s (U 1001 C) Opening Comments 27 (filed Sept. 30, 2024) (“AT&T California Opening Comments”). *See also* USTelecom Opening Comments at 5 (explaining that once broadband networks are deployed, consumers can use them for voice services, negating the need for POTS service).

<sup>11</sup> CalBroadband Opening Comments at 5.

<sup>12</sup> Frontier Opening Comments at 3 (“There are many parts of California that no longer require a COLR. ... [W]here there is a wireline competitor with substantial coverage of an ILEC’s footprint and the same area has broadband access to each of the three major wireless carriers’ service platforms, these conditions present an easy case for COLR relief.”).

<sup>13</sup> TDS Companies Opening Comments at 6 (stating that, if the COLR regime is retained, COLR service territories should be limited to “areas where there are no other competitive options” for telecommunications services).

<sup>14</sup> USTelecom Opening Comments at 2–3 (“Where there is an adequate voice alternative, there is no longer a need to require ANY one company to maintain a COLR obligation and, in particular, require that they offer outdated basic phone service or maintain copper lines for any requesting customer in a geographic area without adequate remuneration for that often uneconomic obligation.”).

<sup>15</sup> AT&T California Opening Comments at 23–24; Declaration of Mark A. Israel on Behalf of AT&T ¶ 30 & tbl. 1. (Sept. 30, 2024) (“Israel Decl.”); *see* Reply Declaration of Mark A. Israel on Behalf of AT&T ¶ 11 (Oct. 30, 2024) (appended as Attachment A) (“Israel Reply Decl.”).

<sup>16</sup> AT&T California Opening Comments at 23; Israel Decl. ¶ 31 & tbl. 2; *see* Israel Reply Decl. ¶ 11.

more voice providers, and almost 100 percent of the population has access to at least two voice providers.<sup>17</sup> The latest data from the Commission likewise show that 99.2 percent of the population in AT&T California’s service territory has access to at least three facilities-based broadband providers.<sup>18</sup> Cal Advocates reports that the great majority of people in California already have multiple facilities-based providers offering broadband at speeds of at least 25/3 Megabits per second (“Mbps”)—a speed that far exceeds the bandwidth necessary to deliver voice services over broadband.<sup>19</sup> Based on the Commission’s December 2021 broadband maps, Cal Advocates reports that, within AT&T California’s service territory, 95 percent of households have 25/3 Mbps mobile wireless coverage from AT&T Mobility, 95 percent of households have 25/3 Mbps mobile wireless coverage from T-Mobile,<sup>20</sup> about 77 percent of households have 25/3 Mbps broadband from cable providers, and nearly 30 percent of households have at least one fiber option.<sup>21</sup> Quoting a recent expert economic analysis, CalBroadband emphasizes “[t]he

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<sup>17</sup> CalBroadband Opening Comments at 6 (citing FCC Form 477 data as June 2021). *See also* AT&T California Opening Comments at 23 (citing Israel Decl. ¶¶ 30, 31 & tbls. 1, 2).

<sup>18</sup> AT&T California Opening Comments at 23 (citing Israel Decl. ¶ 30 & tbl. 1); Israel Reply Decl. ¶ 11.

<sup>19</sup> *See infra* n.169.

<sup>20</sup> To arrive at aggregate coverage for each mobile wireless carrier, AT&T California summed the served households reported by Cal Advocates and divided by the sum of total households for the three service territories. (In the two tables, Cal Advocates reports two different counts of households, population, and housing units for Frontier’s service territory. AT&T California’s calculations use the data reported in each table.) *See also* Israel Reply Decl. ¶ 11.

<sup>21</sup> *See* Initial Proposal of The Pub. Advocs. Off. on the Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 27–28, 37 tbl. 3 (filed Sept. 30, 2024) (“Cal Advocates Opening Comments”). Cal Advocates’ comments understate the availability of broadband in at least two material respects. First, because the underlying data are from December 2021, Cal Advocates Opening Comments at 3 nn.7–8, they do not reflect the significant 5G buildouts and fixed broadband deployment over the last three years. Cal Advocates therefore understates 25/3 Mbps coverage for mobile carriers, which may be why it says Verizon Wireless and other mobile wireless carriers did not report service speeds at or above 25/3 Mbps. *See id.* at 40 n.121. While Cal Advocates reports 25/3 Mbps fixed wireless coverage of about 19 percent of the population of AT&T California’s service territory based on the December 2021 data, *see id.* at 35 tbl. 2, Dr. Israel finds that the December 2023 FCC Broadband Data Collection data “report coverage of 81.36 percent of serviceable locations within AT&T[California]’s service territory.” Israel Reply Decl. ¶ 13. Second, because Cal Advocates presents coverage separately for each mobile wireless carrier and separately for each fixed broadband technology, it understates the availability of broadband services in the aggregate.

market for voice services in California is hyper-competitive,” and there are only “an extremely small number of customers who actually lack [] competitive choices for voice services.”<sup>22</sup> The breadth and scope of broadband alternatives enabling voice communications today demonstrate a fundamentally changed marketplace compared to 1996 when the Commission originally determined COLR obligations to be necessary.

CalBroadband explains further that “a wide range of OTT VoIP services are available throughout the state.”<sup>23</sup> “The FCC’s National Broadband Map reports that nearly 96% of California units have access to a 100/20 Mbps fixed, terrestrial broadband connection capable of providing a high-quality OTT VoIP experience.”<sup>24</sup> The TDS Companies point out that the “Commission’s 2016 decision on its Order Instituting Investigation into the State of Competition Among Telecommunications Providers in California” found that “[a]pproximately 92% of Californians obtain their voice service in a bundle with broadband.”<sup>25</sup> Broadband deployment has been proceeding in California for over two decades and now covers the vast majority of the population.<sup>26</sup> As AT&T California demonstrates in its opening comments, the bottom line is that the vast majority of Californians already have broadband service available to them.<sup>27</sup>

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<sup>22</sup> CalBroadband Opening Comments at 2–3 (alteration in original) (citing R.22-03-016, Comments of the Cal. Cable & Telecomms. Ass’n in Response to Admin. L. Judge’s Ruling Requesting Comments on Network Examination & ARMIS Reporting attach. A (*Out of Sync: Outdated Financial and Operational Reporting for Competitive VoIP Providers*) at 11 (filed Dec. 21, 2022)).

<sup>23</sup> *Id.* at 8.

<sup>24</sup> *Id.* at 8 n.25 (citing *FCC Nat’l Broadband Map*, FCC, [https://broadbandmap.fcc.gov/area-summary/fixed?version=dec2023&geoid=06&type=state&zoom=4.96&vlon=-119.306607&vlat=37.418961&br=r&speed=100\\_20&tech=1\\_2\\_3\\_4\\_5\\_6\\_7\\_8](https://broadbandmap.fcc.gov/area-summary/fixed?version=dec2023&geoid=06&type=state&zoom=4.96&vlon=-119.306607&vlat=37.418961&br=r&speed=100_20&tech=1_2_3_4_5_6_7_8) (last updated Aug. 6, 2024)).

<sup>25</sup> TDS Companies Opening Comments at 2 (citing *Ord. Instituting Investigation into the State of Competition Among Telecomm. Providers in Cal., & To Consider & Resolve Questions Raised in the Ltd. Rehearing of Decision 08-09-042*, D.16-12-025, 2016 Cal. PUC LEXIS 683, at \*294 (Dec. 1, 2016) (FOF 1–3) (“2016 Competition Order”)).

<sup>26</sup> See Israel Reply Decl. ¶¶ 10–17.

<sup>27</sup> AT&T California Opening Comments at 23–26; see Israel Reply Decl. ¶¶ 10–17.

*The availability of broadband also means the availability of voice services*, as mentioned by multiple parties. Joint Commenters state that “[t]he same networks that are being built to provide broadband are also capable of supporting what Californians regard as traditional basic telecommunications service, with its innate ability to support two-way voice communications that is so essential during emergencies.”<sup>28</sup> Frontier notes that “VoIP alternatives are available wherever there is a broadband connection.”<sup>29</sup> According to USTelecom, once “broadband networks are deployed, consumers can use them for voice services, thereby negating the need for POTS service.”<sup>30</sup>

AT&T California agrees with Joint Commenters and USTelecom that the Commission should take a similar approach to the FCC’s “adequate replacement test” to determine when alternative services provide functionally equivalent offerings.<sup>31</sup> In adopting its “adequate replacement test” for discontinuance of legacy TDM-based voice services, the FCC made clear that it does not want “to stifle the new and innovative ways that a replacement service could benefit customers” and thus “recogniz[ed] that a shift from a TDM network to a new technology will never be a purely apples-to-apples comparison.”<sup>32</sup> The FCC accordingly took a “straightforward, streamlined approach” that enables the FCC “to focus on the issues most important to consumers”.<sup>33</sup> “(i) substantially similar levels of network infrastructure and service

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<sup>28</sup> Initial Proposal of The Util. Reform Network, The Commc’ns Workers of Am., Dist. 9, & The Ctr. for Accessible Tech. Regarding The Ord. Instituting Rulemaking To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 17–18 (filed Sept. 30, 2024) (“Joint Commenters Opening Comments”).

<sup>29</sup> Frontier Opening Comments at 1.

<sup>30</sup> USTelecom Opening Comments at 5.

<sup>31</sup> Joint Commenters Opening Comments at 9 (“The Commission should use a version of the FCC’s functional test when considering whether to allow a COLR to provide service with technology that is not copper landlines.”). *See also* USTelecom Opening Comments at 6; AT&T California Opening Comments at 28.

<sup>32</sup> *See Tech. Transitions*, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd. 8283, 8307 ¶ 70 (2016).

<sup>33</sup> *Id.* at 8305–06 ¶¶ 66, 68.

quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors.”<sup>34</sup> The Commission should take a similar approach here and recognize that voice services provided over fixed and mobile broadband offer these features. Indeed, as AT&T California explains in its opening comments, a consumer with any fixed or mobile broadband service has access to voice services that interconnect with the public switched telephone network and support 911 calls.<sup>35</sup>

*Consumers undeniably prefer voice over broadband to POTS services.* The TDS Companies rely on the Commission’s prior findings that “[w]ireless and cable-based [VoIP] services have rapidly displaced traditional landline phones as the primary modes of voice communication in California.”<sup>36</sup> In fact, approximately 95 percent of the households in AT&T California’s territory rely on modern non-COLR services for their voice needs.<sup>37</sup> USTelecom affirms that “the majority of consumers have already voluntarily transitioned [from POTS] to alternative services.”<sup>38</sup> USTelecom points out that “[c]onsumers have spoken with their choices, and they overwhelmingly prefer wireless and VoIP technologies in their home: Over 70% of

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<sup>34</sup> *Id.* at 8305 ¶ 65; *see* 47 C.F.R. § 63.602. These “enumerated” applications and functionalities are fax machines, home security alarms, medical monitoring devices, analog-only caption telephone sets, and point-of-sale terminals. *Tech. Transitions*, 31 FCC Rcd. at 8342 ¶ 159.

<sup>35</sup> AT&T California Opening Comments at 28; 47 C.F.R. § 9.10.

<sup>36</sup> TDS Companies Opening Comments at 2 (citing *2016 Competition Order*, 2016 Cal. PUC LEXIS 683, at \*294 (FOF 1–3)).

<sup>37</sup> *See* AT&T California Opening Comments at 15 (“AT&T California’s POTS penetration is even lower at 4.8 percent in December 2023.”); *see also id.* at 14–22.

<sup>38</sup> USTelecom Comments at 3.

American households are ‘wireless only,’ while, in California, less than 5% of the households have a traditional telephone line.”<sup>39</sup>

Consumers have migrated because modern technologies provide significant advantages that legacy networks simply cannot ever match—a point underscored by several parties.<sup>40</sup> Voice services over fixed and mobile broadband services are technologically superior and available at comparable or lower prices.<sup>41</sup> Mobile wireless services also come with technological advantages over POTS that increase their value to consumers. These advantages grow with every technological advancement. For instance, customers can make and receive calls outside the home and customers do not need to cancel service or change numbers when they move.<sup>42</sup> In the vast majority of mobile wireless plans, voice service is simply an add-on to the primary broadband data service. VoIP and mobile voice services are more reliable and safer than traditional POTS.<sup>43</sup> Mobile wireless and fixed VoIP also come with broadband service, which enables real-time spoken communication at no or little cost from various popular applications.<sup>44</sup>

Beyond these benefits, USTelecom emphasizes that “[c]opper-based lines are less reliable and take much longer to repair following weather events.”<sup>45</sup> And copper networks “cost

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<sup>39</sup> *Id.* (citing *Barely a Quarter of Americans Still Have Landlines. Who Are They?*, Wash. Post (June 23, 2023), <https://www.washingtonpost.com/business/2023/06/23/landline-telephone-holdouts/>; Joint Venture Silicon Valley, *Protecting California in the 21st Century* (2024), <https://jointventure.org/images/stories/pdf/public-safety-report.pdf>).

<sup>40</sup> *See, e.g.*, USTelecom Opening Comments at 3–4; AT&T California Opening Comments 15–22. *See also* TDS Companies Opening Comments at 2–3 (discussing migration to modern technologies due to the “increasingly competitive intermodal voice market”); CalBroadband Opening Comments at 2, 6–8 (describing multi-modal competition throughout California and explaining that modern technologies have “become the first choice for voice service for the vast majority of Californians as wireline subscriptions have decreased”).

<sup>41</sup> AT&T California Opening Comments at 15; Israel Decl. ¶¶ 35–38 & tbls. 3–4.

<sup>42</sup> AT&T California Opening Comments at 15–16. Mobile wireless is also almost always bundled with features like long distance service, voicemail, caller ID, three-way calling, and text messaging that are not included with basic telephone service. *Id.*

<sup>43</sup> *Id.* at 18. Because of its inherent efficiencies, VoIP also offers higher service quality. *Id.*

<sup>44</sup> *Id.* at 21.

<sup>45</sup> USTelecom Opening Comments at 3.

more to maintain, use harder-to-source equipment, and are a greater drain on energy than fiber networks and wireless technologies.”<sup>46</sup> Cal Advocates recognizes the importance “that all Californians have access to ... new technologies.”<sup>47</sup> As carriers transition from POTS to modern broadband networks that are “able to offer needed voice and data services,” Cal Advocates stresses that “no one should be abandoned with inferior service or no service at all.”<sup>48</sup>

*Government maps are the best source of data on the availability of broadband service.*

Several parties rely on the Commission’s broadband maps, the FCC’s National Broadband Map, or both to measure broadband service coverage in California.<sup>49</sup> While Joint Commenters criticize these maps as having “serious limitations,”<sup>50</sup> both the FCC and this Commission have good reason to ensure the accuracy of their broadband coverage data. In particular, the Commission uses its broadband maps for a variety of critical public programs, including its initiatives to close the digital divide as well as efforts to “determine eligibility for the CASF program, generate broadband adoption statistics, and perform analysis on broadband availability to Californians.”<sup>51</sup> Likewise, the federal government uses the FCC’s broadband data to allocate tens of billions of dollars in federal support for broadband deployment.<sup>52</sup> At bottom, government maps are the

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<sup>46</sup> *Id.*

<sup>47</sup> Cal Advocates Opening Comments at 1.

<sup>48</sup> *Id.* at 6.

<sup>49</sup> *See, e.g.*, Cal Advocates Opening Comments at 23; AT&T California Opening Comments at 29; CalBroadband Opening Comments at 6; Consolidated Opening Comments attach. A (Declaration of Bryan Keating).

<sup>50</sup> Joint Commenters Opening Comments at 33.

<sup>51</sup> Cal. Pub. Utils. Comm’n, *California Broadband Data Processing and Validation* 12 (2020) (“CPUC Broadband Data Validation”), <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-mapping/california-broadband-data-processing-and-validation--2021-v22.pdf>.

<sup>52</sup> *See, e.g.*, Internet for All, *FCC Mapping Overview and Guide*, <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-08/IFA-FCC-Mapping-Overview-and-Guide.pdf> (last visited Oct. 7, 2024) (discussing \$48 billion BEAD Program funding based on unserved households according to the FCC broadband maps). Every iteration of the National Broadband Map has improved on the previous version. As providers and other contributors have become more familiar with

“best available” source of broadband coverage data, as recognized by Cal Advocates.<sup>53</sup>

Accordingly, the Commission should rely on government maps for its decisions in this proceeding.<sup>54</sup>

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As discussed above, multiple parties describe widespread intermodal competition and broadband access throughout California and point out that COLR obligations are not needed in such well-served areas. According to USTelecom, “[w]ith the introduction and rapid adoption by consumers of intermodal voice alternatives, traditional telephone service is now a very small part of the communications marketplace.”<sup>55</sup> USTelecom continues: “there no longer is any strong policy reason to compel any provider, or any class of providers, to be on call to serve any customer regardless of the cost, when those customers have alternatives.”<sup>56</sup> CalBroadband

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the map and the processes for reporting and challenging data, accuracy issues are quickly dissipating and will continue to diminish over time.

<sup>53</sup> Cal Advocates Opening Comments at 33 n.108 (stating its reliance on CPUC broadband maps because they are the “best available data source for estimating broadband coverage”).

<sup>54</sup> See *Application of S. Cal. Gas Co. (U 904 G) for Authorization To Increase Rates Charged for Gas Serv. Based on Test Year 1994 & To Include an Attrition Allowance for 1995 & 1996*, D.93-12-043, 1993 Cal. PUC LEXIS 728, at \*10 (Dec. 17, 1993) (“The Commission uses the best evidence it has available to reach its conclusions.”); accord *Application of Cal.-Am. Water Co. (U210W) for Authorization To Increase Its Revenues for Water Serv. in Its Monterey Dist. by \$24,718,200 or 80.30% in the Year 2009; \$6,503,900 or 11.72% in the Year 2010; & \$7,598,300 or 12.25% in the Year 2011 Under the Current Rate Design & To Increase Its Revenues for Water Serv. in the Toro Serv. Area of Its Monterey Dist. by \$354,324 or 114.97% in the Year 2009; \$25,000 or 3.77% in the Year 2010; & \$46,500 or 6.76% in the Year 2011 Under the Current Rate Design; & Related Matters*, D-09-07-021, 2009 Cal. PUC LEXIS 346, at \*172–73 (Jan. 30, 2008) (“We will rely on DRA’s non-regulated allocation calculated from the SEC filing because that filing is the best evidence before us.”); *Greyhound Lines, Inc.*, D.95-01-046, 1995 Cal. PUC LEXIS 45, at \*26 (Jan. 24, 1995) (“We reject DRA’s argument that Greyhound’s two-week traffic study is unreliable, and, therefore, that Greyhound has failed to meet its burden of proof. We recognize that independent corroboration of sample data is desirable, and that seasonal variations can undermine the accuracy of data from a limited time frame. Still, Greyhound’s is the best evidence in this record.”); *Red Top Cogeneration Project, L.P., v. Pac. Gas & Elec. Co.*, D.96-06-030, 1996 Cal. PUC LEXIS 699, at \*22 (June 6, 1996) (“Red Top challenges other elements of PG&E’s study, but presents no evidence that other assumptions are more reasonable. Therefore, the best evidence of dryer operation is from PG&E’s study based upon actual electricity sales to Red Top for dryer operations.”).

<sup>55</sup> USTelecom Opening Comments at 2.

<sup>56</sup> *Id.*



underscores that “multi-modal competition ensures that the vast majority of Californians are well-served by a choice of voice providers and services irrespective of any COLR requirements.”<sup>57</sup> The TDS Companies agree that COLR obligations are unnecessary in today’s competitive marketplace.<sup>58</sup> USTelecom concludes that “[e]limination of legacy obligations will not leave customers without communications services.”<sup>59</sup> While USTelecom undoubtedly is correct as a general rule, AT&T California is willing to explore the concern that there may be a small number of local communities in California that—because of their distinctive factors—continue to have a compelling need for a safety-net voice service for emergencies.<sup>60</sup> AT&T California suggests that this proceeding explore these needs and identify the best solution for any such community where the removal of COLR obligations would have a material impact on the availability of voice service. Specifically, AT&T California proposes that focused, time-bound workshops are the ideal mechanism for crafting a solution for these areas.

**B. Populated Areas That Are Not Well-Served with Broadband Raise More Complex Issues.**

**1. One-size-fits all COLR obligations are not appropriate throughout the state.**

As AT&T California explains in its comments, while only a tiny fraction of the population lives in areas of the state without good broadband service, the significant variations across California may make it challenging to find a one-size-fits-all rule.<sup>61</sup> For example, high-

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<sup>57</sup> CalBroadband Opening Comments at 3.

<sup>58</sup> TDS Companies Opening Comments at 3.

<sup>59</sup> USTelecom Comments at 6. Joint Commenters’ concern that an area will be left without service if there is no COLR, *see, e.g.*, Joint Commenters Opening Comments at 7, ignores the economics of sunk facilities, as explained by Dr. Israel, *see* Israel Reply Decl. ¶ 17.

<sup>60</sup> AT&T California Opening Comments at 29.

<sup>61</sup> *Id.* at 31–32.

cost areas, tribal lands, mountain areas, desert regions, and coastal communities all present different challenges and may demand varied solutions.<sup>62</sup>

Other parties also agree that the Commission should consider categories of communities differently.<sup>63</sup> For instance, Frontier proposes a streamlined process for lifting COLR obligations in urban and suburban areas, and a more detailed evaluation for rural areas.<sup>64</sup> USTelecom points out that in rural parts of the state, the leap into building next-generation broadband networks may require subsidies or alternative technologies.<sup>65</sup> EQUAL likewise explains the unique circumstances of certain individuals or communities living in isolated areas in California.<sup>66</sup> USTelecom underscores that if the Commission “determines that a COLR is needed in a specific geographic area because there is no voice alternative, that requirement should be limited to those specific locations.”<sup>67</sup> Policymakers should concentrate on providing those particularized solutions while avoiding the broad brushstrokes of the COLR obligations, which are wholly unnecessary for the vast majority of Californians and act as a drag on investment in new technologies.

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<sup>62</sup> *Id.*

<sup>63</sup> See, e.g., CalBroadband Opening Comments at 5 (proposing that the Commission should limit COLR requirements to areas that lack competition for voice service); Consolidated Opening Comments at 5 (arguing that COLR obligations should be eliminated in markets where there is robust competition for voice service); Proposal of Small Bus. Util. Advocs. in Response to the Questions in the Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 7–8 (filed Sept. 30, 2024) (“SBUA Opening Comments”) (recommending that “a COLR [be held] 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.”).

<sup>64</sup> See Frontier Opening Comments at 6.

<sup>65</sup> See USTelecom Opening Comments at 4.

<sup>66</sup> See Proposal of Empowering Quality Util. Access for Isolated Localities (“EQUAL”) for Changes to Carrier of Last Resort Rules in Ord. Instituting Rulemaking Proceeding 5, 10, 12 (filed Sept. 30, 2024) (“EQUAL Opening Comments”).

<sup>67</sup> USTelecom Opening Comments at 5–6.

**2. CHCF-B Fund support amounts should be revised to encourage voluntary participation of providers in high-cost areas.**

As AT&T California explained in its opening comments, ensuring service for all is a public good and a public responsibility.<sup>68</sup> Just as hard-to-serve areas require public resources to support broadband deployment,<sup>69</sup> these areas require public funding to offset the COLR’s costs of continuing to provide service or, if the COLR desires to withdraw, to ensure a voluntary replacement. AT&T California agrees with Joint Commenters that the CHCF-B “subsidy amount should be revised to encourage the participation of COLRs in high-cost areas.”<sup>70</sup> In its current form, the CHCF-B Fund is inadequate to attract willing participants. CHCF-B Fund support is only available to COLRs in high-cost areas, and only for residential lines.<sup>71</sup> Moreover, the fund has declined in size substantially over the years, from \$352 million per year in 1996 (\$668 million in today’s dollars) to \$22 million in the 2020–21 budget.<sup>72</sup> In short, it offers too little support for the areas that require it. AT&T California agrees with Joint Commenters that the Commission should consider a new framework for such areas with sufficient public funding to induce service providers to volunteer where necessary,<sup>73</sup> including to allow the current COLR to withdraw.

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<sup>68</sup> AT&T California Opening Comments at 7.

<sup>69</sup> Israel Reply Decl. ¶¶ 18–22.

<sup>70</sup> Joint Commenters Opening Comments at 39.

<sup>71</sup> AT&T California Opening Comments at 32; Cal. Pub. Util. Code § 276.5 (establishing the CHCF-B Fund to support “telephone corporations serving areas where the cost of providing services exceeds rates charged by providers”); Cal. Pub. Utils. Comm’n, *California High Cost Fund B Fact Sheet* (2024), <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/high-cost-support-and-surcharges/chcf-b/chcf-b-fact-sheet.pdf> (explaining that where the cost to providers of providing service is \$36 or more per telephone line, the CHCF-B fund gives providers an average of \$12.79 per month per line).

<sup>72</sup> AT&T California Opening Comments at 33 (citing *OIR*, 2024 Cal. PUC LEXIS 359, at \*6 n.13).

<sup>73</sup> Joint Commenters Opening Comments at 39–40.

**C. The Commission Should Hold Constructive Time-Bound Workshops.**

Resolving the issues addressed above calls for a collaborative investigation that will be difficult to achieve through formal pleadings and evidentiary hearings. Accordingly, AT&T California respectfully recommends that the Commission convene time-bound workshops structured to try to forge a consensus on certain topics.<sup>74</sup> As Joint Commenters observe, “workshops may be helpful for [the] Commission and Parties to obtain clarification about proposals or other issues in the OIR.”<sup>75</sup> AT&T California suggests that the Commission convene workshops structured to resolve a number of the issues in this proceeding, as detailed further in AT&T California’s opening comments and below.<sup>76</sup> By bringing together representatives of the state’s diverse communities and interests, workshops can forge consensus solutions for delivering a communications safety net suited for the distinct needs of different Californians at different stages of the broadband transition in the 21st century.

**D. Federal Law Prevents States from Regulating Fixed Broadband, VoIP, or Mobile Wireless Service.**

Federal law constrains the Commission’s ability to subject fixed broadband, VoIP, or mobile wireless service providers to COLR obligations or other regulations. Numerous parties emphasize that states cannot regulate VoIP service because it is an interstate information service.<sup>77</sup> As CalBroadband explains, “[f]orcing VoIP providers to serve as COLRs ... would

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<sup>74</sup> AT&T California Opening Comments at 34.

<sup>75</sup> Joint Commenters Opening Comments at 63.

<sup>76</sup> AT&T California Opening Comments at 5, 34; *see infra* pp. 26–27, 29–31.

<sup>77</sup> *See, e.g.*, Frontier Opening Comments at 4; CalBroadband Opening Comments at 10; Consolidated Opening Comments at 6–7; Opening Comments of Calaveras Tel. Co. (U 1004 C), Cal-Ore Tel. Co. (U 1006 C), Ducor Tel. Co. (U 1007 C), Foresthill Tel. Co. (U 1009 C), Kerman Tel. Co. (U 1012 C), Pinnacles Tel. Co. The Ponderosa Tel. Co. (U 1014 C), Sierra Tel. Co., Inc. (U 1016 C), The Siskiyou Tel. Co. (U 1017 C), Volcano Tel. Co. (U 1019 C) (“Independent Small LECs”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 7–8 (filed Sept. 30, 2024) (“Small Independent LECs Opening Comments”); TDS Companies Opening Comments at 7. These parties also point out they are aware of a pending proposed decision in R.22-08-008 that reaches some contrary conclusions. *Id.*

exceed the Commission’s authority and be subject to federal preemption.”<sup>78</sup> “[A]s a matter of federal law, VoIP service is classified as interstate, and is subject to the FCC’s authority, not the jurisdiction of this Commission.”<sup>79</sup> These parties also explain that as a matter of California state law, the Commission cannot assert jurisdiction over a VoIP provider because it cannot reasonably be regarded as a “telephone corporation” under the Public Utilities Code.<sup>80</sup> Even Joint Commenters recognize that “*requir[ing]* a VoIP provider” to be a COLR “is a much thornier question.”<sup>81</sup> The TDS Companies clarify that “[e]ven if the Commission did have jurisdiction to apply COLR obligations to VoIP providers, it should not do so, as VoIP providers operate in a highly competitive market with a multiplicity of competitors ... available to any customer with a broadband connection.”<sup>82</sup> In addition, CTIA points out that the Commission cannot require wireless providers to serve as COLRs because to do so would be preempted by federal law.<sup>83</sup> AT&T California generally agrees with these commenters.<sup>84</sup> However, the

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<sup>78</sup> CalBroadband Opening Comments at 10.

<sup>79</sup> Small Independent LECs Opening Comments at 7 (citing *Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Ord. of the Minn. Pub. Utils. Comm’n*, Memorandum Opinion and Order, 19 FCC Rcd. 22404, 22417–18 ¶ 22 (2004) (“*Vonage Preemption Order*”); *Minn. Pub. Utils. Comm’n v. FCC*, 483 F.3d 570 (8th Cir. 2007) (affirming *Vonage* order); *Charter Advanced Servs., LLC v. Lange*, 903 F.3d 715, 719 (8th Cir. 2018) (“In the absence of direct guidance from the FCC,” interconnected VoIP service should be treated as an “information service.”), *cert. denied*, 140 S. Ct. 6 (2019)).

<sup>80</sup> Frontier Opening Comments at 4; Consolidated Opening Comments at 6–7; TDS Companies Opening Comments at 7; Small Independent LECs Opening Comments at 7.

<sup>81</sup> Joint Commenters Opening Comments at 30.

<sup>82</sup> TDS Companies Opening Comments at 7.

<sup>83</sup> Comments of CTIA on Ord. Instituting Rulemaking 2–6 (filed Sept. 30, 2024). Other commenters seem unsure of whether the Commission can require a wireless provider to be a COLR, suggesting that this issue be briefed further. *See* Joint Commenters Opening Comments at 32; EQUAL Opening Comments at 18 (explaining 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”); Small Independent LECs Opening Comments at 8 (suggesting that “there would be significant legal obstacles to classifying cellular or mobile wireless carriers as COLRs”); TDS Companies Opening Comments at 8 (noting that “there are likely to be significant legal limitations on such a policy”).

<sup>84</sup> Similar problems confront the argument from Cal Advocates and Joint Commenters that the COLR rules are technology neutral, such that they can be satisfied by deploying broadband rather than through a copper network. *See* Cal Advocates Opening Comments at 57; Joint Commenters Opening Comments at

Commission need not address this issue in this proceeding to remove COLR obligations in areas where, today, they clearly are no longer necessary to ensure access to service.

### **III. THE COMMISSION SHOULD PROMPTLY ELIMINATE COLR OBLIGATIONS IN AREAS THAT ARE WELL-SERVED WITH BROADBAND AND AREAS WITHOUT PEOPLE BEFORE FOCUSING ON SOLUTIONS FOR OTHER AREAS.**

Parties' opening comments demonstrate the obvious point that circumstances vary widely across the state's regions. Some areas—especially in cities and suburbs—are well-served with broadband under almost any definition of “well-served.” Others are utterly unpopulated and, thus, have no demand for broadband service. And some populated areas remain unserved or underserved with broadband. Given this variability, the Commission will find no one-size-fits-all

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8. A COLR cannot satisfy its COLR obligation over its broadband network because a COLR must provide a tariffed, POTS-centric “basic service,” and wireless and VoIP are interstate services subject to mandatory detariffing under federal law. *Compare 2012 CPUC Decision*, 2012 Cal. PUC LEXIS 597, at \*95–96 app. A (“A basic service provider must file and maintain tariffs or schedules with the Commission by a Tier 2 Advice Letter for its basic service offerings which must include its basic service rates, charges, terms, and conditions; and must make them publicly available.”), and *id.* at \*96–97 app. A (noting that a provider that wishes to offer basic service utilizing anything other than traditional exchange-based wireline technology that cannot comply with all the [service quality] requirements of General Order 133-C must file a Tier 3 advice letter”), with *Vonage Preemption Order*, 19 FCC Rcd. at 22404 ¶ 1, 22415–16 ¶ 20 (explaining that Vonage’s VoIP service, if classified as a telecommunications service, “would be considered a nondominant, competitive telecommunications provider for which the Commission has eliminated entry and tariff filing requirements”), *Pol’y & Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Commc’ns Act of 1934, as Amended*, 11 FCC Rcd. 20730, 20732–33 ¶ 3 (1996) (“order[ing] all nondominant interexchange carriers to cancel their tariffs for interstate, domestic, interexchange services”), and *Implementation of Sections 3(n) & 332 of the Commc’ns Act Regul. Treatment of Mobile Servs.*, 9 FCC Rcd. 1411, 1418–19 ¶ 16 (1994) (forbearing “from imposing any tariff filing obligations upon CMRS providers”). Moreover, the Commission’s OIR belies Cal Advocates’ and Joint Commenters’ claim, raising several preliminary scoping issues about the Commission’s authority to impose COLR obligations on wireless and VoIP providers and whether COLR service can be provisioned over wireless. *OIR*, 2024 Cal. PUC LEXIS 359, at \*5. Indeed, even Joint Commenters question whether wireless carriers can “provide basic service in accordance with the Commission’s requirements.” Joint Commenters Opening Comments at 33–34 (arguing that a wireless carrier should not be designated as a COLR unless it is able to provide basic service). That no COLR satisfies its basic service obligation with mobile wireless or VoIP (to the best of AT&T California’s knowledge and with limited exceptions where copper was destroyed or moved and could not be economically replaced) offers *prima facie* evidence that formal technological neutrality is meaningless. *See also id.* at 31.

solution for updating the COLR obligations. Instead, it should seek separate, carefully considered solutions for different types of areas.

Areas that are well-served with broadband and areas without people<sup>85</sup> present clear cases for ending COLR obligations immediately, enabling the Commission to concentrate on unserved or underserved areas. AT&T California respectfully recommends that the Commission stage this proceeding to consider those first two types of areas before tackling the third. Specifically, the Commission should adopt one or more decisions to reform the COLR obligations for well-served and for unpopulated areas in the first phase of this proceeding and then, in the second, develop a modern solution for populated areas that are not well-served with broadband.<sup>86</sup>

**A. The Initial Phase Should Focus on Areas Well-Served with Broadband and Areas Without Population.**

The Commission adopted the COLR obligations to ensure that all consumers have access to affordable voice service.<sup>87</sup> For areas that are well-served with broadband, voice service is ubiquitously available, and the COLR obligations should end. The COLR obligations should also conclude where there are no people and therefore no demand for affordable voice service.

As discussed in more detail above,<sup>88</sup> a number of parties agree that (1) where there is ubiquitous broadband service, there is ubiquitous voice service<sup>89</sup> and (2) there is ubiquitous

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<sup>85</sup> As discussed in its opening comments, AT&T California proposes that this category formally be defined as census blocks for which (a) the U.S. Census Bureau reports zero population, (b) the applicable COLR does not serve any customer address with basic telephone service in that census block, *and* (c) the National Broadband Map does not report any serviceable locations. AT&T California Opening Comments at 30.

<sup>86</sup> Frontier offers a similar proposal. *See* Frontier Opening Comments at 1–2 (“The Commission should prioritize COLR relief in urban and suburban markets. . . . This task should not be delayed while the Commission determines how to formulate a process for more rural areas.”).

<sup>87</sup> *Rulemaking on Comm’n’s Own Motion into Universal Serv. & To Comply with the Mandates of Assembly Bill 3643*, D.96-10-066, 1996 Cal. PUC LEXIS 1046 (Oct. 25, 1996).

<sup>88</sup> *See supra* Section II.A.

<sup>89</sup> *See* AT&T California Opening Comments at 23–26; Joint Commenters Opening Comments at 17–18 (“The same networks that are being built to provide broadband are also capable of supporting what Californians regard as traditional basic telecommunications service, with its innate ability to support two-

broadband service across much of the state. For example, Dr. Israel found that more than 99 percent of the serviceable locations in AT&T California’s service territory have three or more facilities-based broadband providers.<sup>90</sup> He similarly found that over 99 percent of the population of AT&T California’s service territory can choose from at least three.<sup>91</sup> In Frontier’s urban and suburban territory too, “there is expansive, reliable coverage from each of the major wireless carriers—AT&T, Verizon, and T-Mobile—as well as extensive competition from cable providers, such as Comcast and Spectrum.”<sup>92</sup> Similarly, in at least 94 percent of Consolidated’s footprint, covering 95 percent of the population, there are at least four competitors while there are at least three carriers in every part of Consolidated’s service territory.<sup>93</sup>

Cal Advocates and Joint Commenters are absolutely correct that affordability matters in addition to availability.<sup>94</sup> However, the marketplace evidence confirms that voice services delivered by fixed and mobile broadband services are available at similar or lower prices compared to AT&T California’s POTS service.<sup>95</sup> Comcast and Cox, for example, offer standalone VoIP services that cost less than AT&T California’s POTS service and include

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way voice communications that is so essential during emergencies.”); USTelecom Opening Comments at 5.

<sup>90</sup> Israel Decl. ¶ 31 & tbl. 2 (describing in detail how to replicate his analysis of the FCC BDC data). The Commission should reject Joint Commenters’ attempts to use anecdotal evidence to show wireless coverage is not reliable in certain communities. *See, e.g.*, Joint Commenters Opening Comments at 16. Joint Commenters do not verify these anecdotes, they do not identify specific addresses for which the purported lack of service could be verified, nor do they tie each anecdote to any particular mobile carrier.

<sup>91</sup> Israel Decl. ¶ 30 & tbl. 1. As explained in AT&T California’s opening comments and the Israel Declaration, his analyses conservatively understate the availability of broadband service. AT&T California Opening Comments at 23–26; Israel Decl. ¶¶ 24–33 & tbls. 1–2.

<sup>92</sup> Frontier Opening Comments at 1–2.

<sup>93</sup> Consolidated Opening Comments at 4.

<sup>94</sup> *See* Cal Advocates Opening Comments at 49 (arguing that “[t]he Commission should assess the availability of providers and affordability of plan choices in all COLR service areas”); Joint Commenters Opening Comments at 4 (“[T]he revised COLR rules should continue to be grounded in the fundamental principle of universal service, in the public interest, guaranteeing that *all* Californians are entitled to affordable, reliable service, provided without discrimination.”).

<sup>95</sup> *See* AT&T California Opening Comments at 15–16; Israel Decl. ¶¶ 34–39 & tbls. 3–4.



unlimited local and long-distance calling.<sup>96</sup> Likewise, T-Mobile, Verizon Wireless, AT&T Mobility, and DISH all offer plans that include nationwide calling and data at prices less than or comparable to AT&T California’s POTS service.<sup>97</sup> In other words, customers who can afford POTS can afford voice services over fixed or mobile broadband. For those who require Lifeline assistance to afford POTS, more than a dozen mobile wireless providers—both facilities-based and resellers—offer Lifeline services throughout the state.<sup>98</sup>

The availability of comparably or lower priced voice services over fixed and mobile broadband have contributed to the mass migration away from POTS. AT&T California lost 93 percent of its POTS lines from 2000 to 2023,<sup>99</sup> even as California’s population grew by almost

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<sup>96</sup> Israel Decl. ¶ 35 & n.32, tbl. 3 (Comcast and Cox offer unbundled VoIP service at \$30/month and \$20/month, respectively, as opposed to AT&T California POTS at \$37.50/month).

<sup>97</sup> *Id.* ¶ 36 & tbl. 4 (AT&T California POTS costs \$37.50/month; T-Mobile service starts at \$15/month (Mint Mobile), Verizon Wireless at \$35/month (Straight Talk), AT&T Mobility at \$30/month (AT&T Prepaid and Cricket Wireless), and DISH at \$25/month (Boost Mobile)). DIRECTV, in which AT&T has announced an agreement to sell its interest, is acquiring DISH’s satellite video business but not the mobile wireless business. See *DIRECTV To Acquire EchoStar’s Video Distribution Business, Including Dish TV and Sling TV* (Sept. 30, 2023), <https://www.directv.com/insider/directv-and-dish/>.

<sup>98</sup> For example, Assurance Wireless (with approximately 105,000 LifeLine subscribers) and Tracfone (with approximately 208,000) are brands of facilities-based providers T-Mobile and Verizon Wireless, respectively. See *California LifeLine Related Forms and Notices for Carriers*, Cal. Pub. Utils. Comm’n, <https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/lifeline/lifeline-related-forms-and-notices-for-service-providers> (last visited Oct. 14, 2024) (“Maximus Lifeline Data”) (choose “2024” under “THIRD PARTY ADMINISTRATOR LIFELINE CUSTOMER COUNTS” to access data in Excel file) (listing carriers’ LifeLine subscribers by month). Other large mobile wireless LifeLine providers are TruConnect (with approximately 545,000) and Infiniti Mobile (with approximately 171,000). See *id.* All four have Eligible Telecommunications Carrier (“ETC”) designations, see Cal. Pub. Utils. Comm’n Resol. T-17388 (Feb. 28, 2013); Cal. Pub. Utils. Comm’n Resol. T-17467 (Aug. 13, 2015); Cal. Pub. Utils. Comm’n Resol. T-17587 (Mar. 1, 2018); Cal. Pub. Utils. Comm’n Resol. T-17729 (June 3, 2021), meaning they must provide Lifeline service, see 47 C.F.R. § 54.405(a); see also *What Is the Lifeline Assistance Program?*, Assurance Wireless, <https://www.assurancewireless.com> (last visited Oct. 14, 2024); *Government Discount Programs Can Cut Big Dollars Off Your Cellular Plan*, Tracfone, <https://www.tracfone.com/gdp> (last visited Oct. 14, 2024); *About the Lifeline Program*, TruConnect, <https://www.truconnect.com/program/about-lifeline> (last visited Oct. 14, 2024); *Why Choose Infiniti Mobile?*, Infiniti Mobile, <https://infinitimobile.com> (last visited Oct. 14, 2024).

<sup>99</sup> Israel Decl. ¶ 20.

15 percent<sup>100</sup> and housing units by 19 percent during that same period.<sup>101</sup> In addition, the overwhelming majority of California Lifeline subscribers choose mobile over POTS.<sup>102</sup> The fact that under five percent of the households in AT&T California’s service territory still purchase POTS proves that virtually all of AT&T California’s customers have alternatives at their households they find superior.<sup>103</sup>

Consumers in areas that are well-served with broadband today enjoy ubiquitous, affordable voice services without any regulatory mandate.<sup>104</sup> In those areas, COLR obligations generally are superfluous—but not benignly so.<sup>105</sup> The obligations harm residents and businesses by diverting resources from investment in broadband to maintenance of TDM networks and related services, which fewer and fewer customers even want.<sup>106</sup> Consumers also suffer because COLR obligations reduce competitive intensity for modern communications services by arbitrarily constraining ILECs alone.<sup>107</sup> Finally, by forcibly prolonging the life of copper networks, the COLR obligations increase electricity demand and other sources of greenhouse gas

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<sup>100</sup> *Compare DP1: Profile of General Demographic Characteristics: 2000*, U.S. Census Bureau, <https://data.census.gov/table/DECENNIALDPAIAN2000.DP1?q=california%20population%202000> (last visited Oct. 14, 2024) (noting that California’s population in 2000 was around 34 million), *with DP05: ACS Demographic and Housing Estimates*, U.S. Census Bureau, <https://data.census.gov/table?q=california%20population%202023> (last visited Oct. 14, 2024) (noting that California’s population in 2023 was around 39 million).

<sup>101</sup> *Compare U.S. Census Bureau, 2000 Census of Population and Housing, Summary Population and Housing Characteristics, PHC-1-6, California* 174 tbl. 7 (2002) (showing that California’s household total in 2000 was around 12 million), <https://www2.census.gov/library/publications/2002/dec/phc-1-6.pdf>, *with DP02: Selected Social Characteristics in the United States*, U.S. Census Bureau, <https://data.census.gov/table/ACSDP1Y2023.DP02?q=california%20household%202023> (last visited Oct. 15, 2024) (noting that California’s household total in 2023 was around 14 million).

<sup>102</sup> *See* Maximus Lifeline Data (indicating that, as of September 2024, there were over 1.5 million mobile LifeLine customers and fewer than 125,000 wireline LifeLine customers).

<sup>103</sup> Israel Decl. ¶ 18.

<sup>104</sup> *See* Israel Reply Decl. ¶¶ 11–13, 17.

<sup>105</sup> *See* AT&T California Opening Comments at 27–29; Israel Decl. ¶¶ 11–12, 40. *See also infra* Section V (discussing why imposing additional obligations on COLRs would harm consumers); Israel Reply Decl. ¶¶ 11, 17.

<sup>106</sup> *See* AT&T California Opening Comments at 11; Israel Decl. ¶¶ 53, 55.

<sup>107</sup> *See* AT&T California Opening Comments at 12–13; Israel Decl. ¶¶ 55, 58; Israel Reply Decl. ¶ 26.

emissions.<sup>108</sup> In the first stage of this proceeding, therefore, the Commission should end the COLR obligations and remove the basic service tariff in areas that are well-served with broadband today.

Collectively reaching almost all Californians with competing broadband networks and services is the direct result of providers' investment of many billions of dollars. To supplement this enormous amount of private capital, the federal government, in concert with California and other states, has initiated once-in-a-lifetime public funding programs to bring next-generation broadband service to hard-to-serve areas.<sup>109</sup> We are in the middle of these deployment efforts, which will continue to unfold with increased momentum while this proceeding is underway. As a result, many areas that are not well-served with broadband today will be well-served in the near future. It is critical that regulation not lag far behind the facts on the ground. The first stage of this proceeding, therefore, should produce a straightforward mechanism to remove the COLR obligations in an area that becomes well-served with broadband.

For different reasons, in this first stage, the Commission also should end the COLR obligations and remove the basic service tariff in areas where there are no population, no current COLR basic telephone service customers, and no serviceable locations. In those areas, there is no demand for communications services and, thus, no need for a COLR. If an area becomes populated but does not attract a broadband provider, appropriately funded government programs can ensure deployment of broadband service.<sup>110</sup>

To refine these proposals for adoption at the end of the first stage, the Commission should convene time-bound workshops structured to resolve particular issues. For example, in

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<sup>108</sup> See AT&T California Opening Comments at 13–14.

<sup>109</sup> See *id.* at 25–26.

<sup>110</sup> See *id.* at 30–31.

this proceeding and in its discussions with stakeholders this year, AT&T California has heard different ideas about what qualifies an area as well-served with broadband. Assemblymember Tina McKinnor’s AB 2797 proposed a threshold of at least two alternative voice service (*i.e.*, broadband) providers in urban census blocks, provided they offer a voice service that is reasonably comparable in price and value to nondiscounted basic exchange telephone service.<sup>111</sup> While not endorsing a specific threshold, “Frontier observes that where there is a wireline competitor with substantial coverage of an ILEC’s footprint and the same area has broadband access to each of the three major wireless carriers’ service platforms, these conditions present an easy case for COLR relief.”<sup>112</sup> The TDS Companies propose that a carrier should be permitted to relinquish its COLR status upon a showing through a Tier 3 advice letter process that “80% of the carrier’s customer locations” in the area in which it seeks to lift the COLR designation “have access to service from at least one other reliable wireless or wireline voice service provider.”<sup>113</sup> Different types of areas may require different answers, including that hard-to-serve areas with state- or federal-supported deployments may not present an economic case for competitors and should be considered well-served with a single broadband provider.<sup>114</sup>

However one draws these lines, parties agree that the best-available data should support any determination,<sup>115</sup> and Commission precedent supports this view.<sup>116</sup> The Commission and the FCC both take great pains to ensure the accuracy of their broadband data, making both sets of

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<sup>111</sup> A.B. 2797, 2024 Leg. § 2, 2023-2024 Regular Sess. (Cal. 2024) (proposing new Section 709.1(a)(1)(B)(i)), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240AB2797](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2797).

<sup>112</sup> Frontier Opening Comments at 3.

<sup>113</sup> TDS Opening Comments at 3.

<sup>114</sup> See AT&T California Opening Comments at 4–5.

<sup>115</sup> See *supra* Section II.A.4.

<sup>116</sup> See *supra* p. 15 n.54 (citing cases).

data reliable.<sup>117</sup> Cal Advocates suggests using the Commission’s Fixed and Mobile Broadband Maps, provided that the Commission collect the same data that carriers provide to the FCC for the National Broadband Map.<sup>118</sup> Currently, however, the FCC updates the National Broadband Map every six months<sup>119</sup> while the Commission collects new data annually.<sup>120</sup> Parties need to work through such points to propose the data source(s) for determining if an area is well-served.

AT&T California also remains mindful there may be a small number of local communities that—because of their distinctive factors—continue to have a compelling need for a safety-net voice service for emergencies despite being well-served with broadband. AT&T California respectfully suggests that collaborative workshops designed to produce consensus would be the best forum for defining what constitutes “well-served” by broadband, for devising the mechanism to remove the COLR obligations in newly well-served areas, and for crafting solutions for particular and distinct local communities.

**B. In a Second Phase, the Commission Should Develop a Modern Solution for Populated Areas Not Well-Served with Broadband.**

Once the Commission has reformed the COLR obligations for the vast majority of the population who live in well-served areas and for unpopulated areas, this proceeding should focus on the more complex issues posed by populated areas that are not well-served with broadband. Only a very small fraction of the population lives in these last areas.<sup>121</sup> However, as AT&T

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<sup>117</sup> See *CPUC Broadband Data Validation* at 5.

<sup>118</sup> See Cal Advocates Opening Comments at 3, 23, 27, 30, 33, 39 (basing its analyses of broadband availability on CPUC’s broadband data and maps); *id.* at 46 (urging the Commission to require COLRs to simultaneously report FCC-mandated data to the Commission on a biannual basis).

<sup>119</sup> *Broadband Data Collection*, FCC, <https://www.fcc.gov/BroadbandData> (last updated June 25, 2024).

<sup>120</sup> *Broadband Mapping Program*, Cal. Pub. Utils. Comm’n, <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program#:~:text=The%20California%20Public%20Utilities%20Commission,service%20providers%20in%20their%20area> (last visited Oct. 15, 2024).

<sup>121</sup> See Israel Decl. ¶¶ 6–7, 9.

California noted in its opening comments, the vast differences across California may preclude a single solution that fits all of them.<sup>122</sup> As noted above, other commenters agree.<sup>123</sup> AT&T California recommends that the Commission convene workshops at this stage too, so the relevant stakeholders can focus on arriving at modern solutions for those particularized areas.

#### **IV. THE COMMISSION SHOULD DEVELOP APPROPRIATE RULES FOR CUSTOMER NOTICE AT THE END OF EACH STAGE.**

AT&T California recommends that, at the end of each stage of the proceeding, the Commission hold a workshop to address customer notices and, to the extent applicable, transitions to another service. There is widespread agreement on the importance of customer notices and a well-thought-out transition process when a COLR discontinues service.<sup>124</sup> The lodestar here should be to ensure customers are provided timely, comprehensive, and actionable information so that consumers are prepared for and capable of making informed decisions about a change in service. Carriers, as much as the Commission, want to avoid customer confusion. All carriers have the incentive to provide accurate, clear notices to avoid customer confusion. Carriers that issue inadequate notices must devote extra resources to call centers and other customer-care operations; they also risk losing customer goodwill, satisfaction, and ultimately customers. Accordingly, AT&T California offers the following principles to guide the Commission's consideration of notice requirements:

1. Customer notices should be clear, relevant, and timely. Part of clarity is providing notices in the language in which a customer is billed.

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<sup>122</sup> AT&T California Opening Comments at 31–32 (footnote omitted) (“Some areas qualify as high-cost—meaning that they qualify under historic rules related to the cost to deploy and maintain networks—and, thus, are eligible for CHCF-B Fund support. Tribal lands, at least in some cases, present different challenges. And the state’s varied geography and topography—mountain areas, desert regions, coastal communities, and offshore islands—may demand varied solutions.”).

<sup>123</sup> See *supra* notes 63–67 (noting agreement of Frontier, USTelecom, and EQUAL).

<sup>124</sup> See, e.g., Cal Advocates Opening Comments at 65–67; Consolidated Opening Comments at 9; Frontier Opening Comments at 6; Joint Commenters Opening Comments at 46–47, 50–53.

2. Customer notices should focus on relevant information about a change in a customer's service, and not convey information that does not apply to the customer at all. Every required statement should be directly linked to a change in service to avoid confusing customers.
3. The information relevant to customers will vary depending on the nature of the service change. The Commission should provide carriers the flexibility to craft customer notices suited to particular facts to avoid unnecessary confusion.

In contrast to these general principles, Cal Advocates, Joint Commenters, EQUAL, SBUA, and EMF Safety Network, among other parties, offer detailed prescriptions for customer notices and transition plans.<sup>125</sup> With all due respect, they are urging the Commission to put the cart before the horse. Until the Commission decides what COLR obligations will apply going forward, it is premature to consider these parties' wide-ranging proposals. What constitutes appropriate notice depends on what is being notified to customers, and we will not know that until the Commission decides how to change the COLR obligations.

For example, Joint Commenters' proposal to model customer notices on those required under the CLEC Mass Migration Guidelines<sup>126</sup> would make no sense for areas where the Commission decides to end the COLR obligations without there being a replacement COLR (such as areas that are well-served with broadband, under AT&T California's proposals). For customers unaffected by a change, it only adds to confusion to provide them a message suggesting they will be affected. When notices become too frequent and do not apply to customers, customers begin to disregard them. Removal of the COLR obligations in itself will not allow a carrier to stop providing basic telephone service. Rather, the carrier also must satisfy the discontinuance requirements of Section 214 *before* it may withdraw basic telephone

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<sup>125</sup> See Cal Advocates Opening Comments at 65–67; Joint Commenters Opening Comments at 46–47, 50–53; EQUAL Opening Comments at 23; SBUA Opening Comments at 8; Comments of EMF Safety Network at 4 (filed Sept. 30, 2024).

<sup>126</sup> See Joint Commenters Opening Comments at 50.

service.<sup>127</sup> Conflating the end of the COLR obligations with the discontinuation of basic telephone service would confuse customers with inaccurate information.

Logically, therefore, the Commission should defer consideration of notice and, if applicable, transition requirements until it has resolved the other issues in that stage. Then, AT&T California recommends that the Commission convene a workshop to develop requirements that are appropriate in light of those earlier decisions and consistent with the three principles that AT&T California has offered.

## **V. THE COMMISSION SHOULD REJECT PROPOSALS THAT IGNORE THE MODERN BROADBAND ERA.**

Parties, in particular Cal Advocates and Joint Commenters, seek to use this rulemaking to address issues far beyond the scope of the COLR obligations.<sup>128</sup> Their proposals would have the Commission use this proceeding to create entirely new—and counterproductive—broadband mandates while simultaneously requiring existing COLRs to maintain aging and increasingly obsolete copper wire networks.<sup>129</sup> In effect, the processes Cal Advocates and Joint Commenters propose would lock the existing COLRs into an unending role.<sup>130</sup> These proposals would reduce market incentives for carriers to modernize their networks and stifle competition for broadband, all to the detriment of consumers.<sup>131</sup> The Commission should reject these proposals in favor of a proceeding that narrowly focuses first on reforming the COLR obligations to provide ILECs a

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<sup>127</sup> See 47 U.S.C. § 214(a); see USTelecom Opening Comments at 6 (discussing federal Section 214 discontinuation requirements).

<sup>128</sup> See, e.g., Cal Advocates Opening Comments at 9 (recommending inclusion of broadband service as part of basic service components); Joint Commenters Opening Comments at 35, 38 (substantially rewriting the Commission’s basic service requirements by, among others, recommending inclusion of broadband service as an element of basic service).

<sup>129</sup> See Cal Advocates Opening Comments at 9; Joint Commenters Opening Comments at 35.

<sup>130</sup> See, e.g., Cal Advocates Opening Comments at 11 (suggesting that COLRs must first deploy broadband service at speeds of at least 100/20 Mbps as a condition of authorization to withdraw from the COLR obligations in a service area); Joint Commenters Opening Comments at 42 (suggesting that a COLR cannot withdraw unless it first identifies a replacement COLR).

<sup>131</sup> See Israel Reply Decl. ¶¶ 24–26.



reasonable path to end their three decades of compulsory COLR service in areas that are now well-served with broadband or are unpopulated and then tackles populated areas that are not yet well-served.<sup>132</sup>

**A. Expanding the COLR Obligations in Well-Served Areas Is Unnecessary To Protect the Communications Safety Net and Would Harm Californians.**

The Commission created the COLR obligations to guarantee universal voice service at a time of transition from monopolization to competition.<sup>133</sup> In the vast majority of California, that transition has ended, and intermodal competition flourishes.<sup>134</sup> Yet, numerous parties suggest that, despite these radically changed conditions, the COLR obligations should not just endure, they should expand in a number of ways.<sup>135</sup> Their proposals would drain available resources and stymie the state's goal of achieving ubiquitous access to broadband service.

As AT&T California demonstrated in its opening comments, in areas that are already well-served with broadband, the COLR obligations are not only superfluous but also harmful.<sup>136</sup> Requiring carriers to maintain antiquated networks in such areas hurts residents and businesses by diverting resources from investment in broadband.<sup>137</sup> With fewer and fewer customers subscribing to POTS,<sup>138</sup> continuing the COLR obligations in areas well-served by broadband would have ILECs expending substantial investment capital to preserve legacy networks for the

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<sup>132</sup> See *supra* Section III.

<sup>133</sup> *1996 CPUC Decision*, 1996 Cal. PUC LEXIS 1046, at \*23 (“As the marketplace for local telephone exchange service moves from a monopoly provider to multiple providers, the universal service program needs to be readjusted to meet the challenges of increasing competition.”). As discussed above, the COLR obligation was not an end in itself, merely a means. See *supra* Section II.A.

<sup>134</sup> See *supra* Section II.A.

<sup>135</sup> See Cal Advocates Opening Comments at 9; Joint Commenters Opening Comments at 35.

<sup>136</sup> See AT&T California Opening Comments at 27–29 (explaining why a COLR is not needed in areas that are well-served with broadband).

<sup>137</sup> *Id.* at 11; Israel Decl. ¶¶ 52, 55; Israel Reply Decl. ¶ 26; see USTelecom Opening Comments at 4 (“[M]aintaining a copper network drains resources away from building a next generation broadband network that can help narrow the digital divide.”).

<sup>138</sup> Across AT&T California's entire service territory, for example, orders for copper-based landlines have decreased 93 percent since 2000. Israel Decl. ¶¶ 18, 20.

benefit of a small and decreasing minority of customers. Instead of maintaining legacy networks for those customers with ample less costly and technologically superior alternatives, ILECs could invest that capital to expand broadband availability. Consumers would suffer the effects of expanding the COLR obligations in other ways, too. The COLR obligations reduce competition for modern telecommunications services *everywhere* by arbitrarily constraining ILECs alone.<sup>139</sup>

As other parties have pointed out, mandating services delivered over the copper wire networks longer than necessary also taxes the environment.<sup>140</sup> Aging copper wire networks require significant energy resources.<sup>141</sup> Fiber networks consume over two thirds less electricity,<sup>142</sup> before factoring in the energy required for repairs.<sup>143</sup> The Commission should take these environmental harms into account when considering proposals that would delay the

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<sup>139</sup> See Israel Reply Decl. ¶¶ 24–26.

<sup>140</sup> See USTelecom Comments at 3 (explaining that copper networks “are a greater drain on energy than fiber networks and wireless technologies”).

<sup>141</sup> AT&T California Opening Comments at 13–14.

<sup>142</sup> See *ABI Research Identifies 30 Sustainability Action Items for Telco Operators*, ABI Rsch. (Apr. 21, 2022), <https://www.abiresearch.com/press/purchasing-renewable-energy-removes-co2-emissions-equal-to-20-million-barrels-of-oil-a-year-for-leading-telco-operators/> (“replace copper with fiber (85% improved efficiency”); Javier Gil Gómez et al., *The Growing Imperative of Energy Optimization for Telco Networks*, McKinsey & Co. (Feb. 23, 2024), <https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/the-growing-imperative-of-energy-optimization-for-telco-networks>; Karim Taga et al., Arthur D. Little, *Copper Switch Off: Opportunity To Drive Infrastructure Coverage?* 7 (2021), [https://www.adlittle.com/sites/default/files/reports/ADL\\_Copper\\_SwitchOff.pdf](https://www.adlittle.com/sites/default/files/reports/ADL_Copper_SwitchOff.pdf); Tom Wheeler, Chairman, FCC, Prepared Remarks of FCC Chairman Tom Wheeler, The Brookings Institution (June 26, 2015), <https://docs.fcc.gov/public/attachments/DOC-334141A1.pdf> (noting that software defined networks “can save up to 60 percent on energy costs”).

<sup>143</sup> See Barry Walton, *Cost Calculations of Fiber and Copper*, Corning, <https://www.corning.com/fiber-to-the-premise/worldwide/en/home/knowledge-center/cost-calculations-of-fiber-and-copper.html> (last visited Oct. 15, 2024) (“[C]opper-based broadband service can be less reliable and often requires several repeat truck rolls with technicians of various skill sets to carry out the frequent repairs needed to maintain service speeds.”); Yanitsa Boyadzhieva, *TalkTalk Finds Fibre Networks Will Cost the Planet Much Less Than Copper*, TelecomTV (Apr. 8, 2022), <https://www.telecomtv.com/content/sustainability/talktalk-finds-fibre-networks-will-cost-the-planet-much-less-than-copper-44136/> (reasoning that fiber is more resilient than copper, and this results in “fewer faults and ‘dramatically’ less need for engineers to be sent to fix the networks” and in “lower carbon footprint through reduced transportation costs”).

transition from services delivered over the copper wire network to more energy-efficient broadband technologies.<sup>144</sup>

EQUAL assumes there must be a COLR for every geographic territory throughout the state,<sup>145</sup> despite the clear inefficiencies of this requirement in a world with decreasing demand for POTS service and increasing competition.<sup>146</sup> Therefore, EQUAL’s suggestion to require existing COLRs to assign or transfer the use of their copper facilities to a replacement COLR for a nominal amount would not address the economic inefficiencies of COLR obligations in areas that are already well-served or have no population; it is also fatally flawed in several other respects.<sup>147</sup> First, the implicit premises of EQUAL’s proposal—that COLRs effectively do not own their networks because they “were built using ratepayer money”<sup>148</sup> and only have nominal value today—are factually unsupported and fundamentally incorrect. Since the New Regulatory Framework took effect for AT&T California on January 1, 1990, AT&T California has built out

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<sup>144</sup> Cf. Cal. Pub. Utils. Comm’n, *Environmental & Social Justice Action Plan Version 2.0* at 2 (2022), <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf> (explaining that “[t]he CPUC’s Environmental and Social Justice (ESJ) Action Plan serves as both a commitment to furthering principles of environmental and social justice”). Joint Commenters and Cal Advocates mischaracterize AT&T’s CEO, John Stankey’s statements during AT&T’s Q1 2024 earnings call to imply that AT&T California is trying to exit from “undesirable” areas. See Joint Commenters Opening Comments at 19; Cal Advocates Opening Comments at 58. Through its support for COLR reform, AT&T California seeks to transition from legacy copper-line telephone networks to modern broadband networks, not to stop providing service. Indeed, AT&T California remains fully committed to serving its California customers and has stated it will remain the COLR in populated areas until they qualify as well-served with broadband.

<sup>145</sup> See EQUAL Opening Comments at 17.

<sup>146</sup> See Israel Reply Decl. ¶ 31.

<sup>147</sup> See EQUAL Opening Comments at 7. EQUAL claims it “represents Californians living in areas that are isolated due to geography topography and other factors, and who have no meaningful alternative to POTS.” *Id.* at 5. It appears that EQUAL’s constituents do not live in areas well-served by broadband. AT&T California agrees with EQUAL that workshops are the best way to address COLR reform for such areas. Compare *id.* at 8, with AT&T California Opening Comments at 34. If its proposals are adopted, AT&T California has committed to remain a COLR in such areas until they become well-served, see *id.* at 5, which may moot EQUAL’s concerns.

<sup>148</sup> EQUAL Opening Comments at 12.

and maintained its network using its own capital, at its own risk.<sup>149</sup> AT&T California has invested in the network's ongoing maintenance and repair, including powering and maintaining the wire centers, developing IT and billing systems, providing customer care, monitoring, and provisioning, none of which is a network element that AT&T California could simply hand over. EQUAL also fails to take into account the rights of way, licenses, permits, and easements that are required for the copper wire network, and which may or may not be transferable. As EQUAL recognizes, some of AT&T California's physical copper wire facilities may be used for current or future technological deployments.<sup>150</sup> Requiring a COLR, as a condition of withdrawal, to give its network to another carrier for essentially nothing and then provide financial support during the transition period would confiscate the withdrawing COLR's valuable assets while imposing substantial transition costs.<sup>151</sup>

Second, EQUAL wrongly suggests that this requirement would incentivize COLRs to transfer their facilities and obligations to those willing and able to invest and improve these legacy networks.<sup>152</sup> In fact, as explained by Dr. Israel, EQUAL's proposal would disincentivize the transfer of facilities and create no—or even negative—incentives for their maintenance or upgrade.<sup>153</sup> The existing COLR would bear the burden of not only identifying the replacement COLR, but also the obligation to provide it “technical and operational” support for a one-year transition period.<sup>154</sup> And any potential replacement COLR, if it later sought to relinquish its

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<sup>149</sup> See *Alt. Regul. Frameworks for Loc. Exch. Carriers*, D.89-10-031, 1989 Cal. PUC LEXIS 576, at \*86–87, \*133 (1989); Israel Reply Decl. ¶ 29.

<sup>150</sup> EQUAL Opening Comments at 19 (positing that “a withdrawing COLR may well intend to continue to use its existing systems to continue to operate their remaining business”).

<sup>151</sup> While AT&T California cannot speak to the circumstances of the other ILECs, it believes the points it makes in this paragraph apply at least to the other Uniform Regulatory Framework carriers.

<sup>152</sup> See EQUAL Opening Comments at 7–8.

<sup>153</sup> See Israel Reply Decl. ¶¶ 30–31.

<sup>154</sup> EQUAL Opening Comments at 23.

COLR designation, would in turn have the burden of identifying a replacement, to which it would have to give away the network assets for a “nominal amount” while remaining saddled with the costs of transition. The potential replacement COLR thus would have reduced incentives to invest in the facilities because it would lose its investments upon withdrawal.<sup>155</sup> Requiring a COLR throughout California makes no sense in the current competitive environment and EQUAL’s proposal does nothing to address—but rather, perpetuates and expands—the problems this rulemaking seeks to address.

**B. Other Initiatives Offer Better Ways To Achieve the Goal of Expanding Broadband Access Than Increasing the Requirements on Existing COLRs.**

Cal Advocates would have the Commission require that a carrier show that it has “deployed technologies sufficient to provide broadband basic service across [its service] area” to be able to withdraw from being a COLR.<sup>156</sup> As Cal Advocates acknowledges,<sup>157</sup> the Commission is already working to achieve its goal of ubiquitous broadband through BEAD, FFA, and other programs. Cal Advocates suggests that these grant programs may not provide sufficient funding to “achieve universal access to broadband,”<sup>158</sup> but Cal Advocates does not even limit its proposal to populated areas that are not well-served with broadband. Instead, Cal Advocates insists that the existing COLRs deploy broadband everywhere as an initial condition of COLR withdrawal.<sup>159</sup>

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<sup>155</sup> Israel Reply Decl. ¶ 31.

<sup>156</sup> Cal Advocates Opening Comments at 11; *see also id.* at 15 (urging the Commission to add broadband at speeds of 100/20 Mbps to the requirements for providing basic service).

<sup>157</sup> *Id.* at 12.

<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at 44 (“[T]he Commission should require a showing that the COLR has *itself* deployed technologies sufficient to provide broadband basic service across a service area (100% deployment) as a condition of authorization to withdraw from the COLR obligation in that service area.” (emphasis added)).

Cal Advocates’ proposal has multiple problems, as AT&T California’s expert explains. First, it would impose a substantial burden on any carrier required to deploy a broadband network to its entire service area.<sup>160</sup> Second, requiring COLRs to devote resources to building out broadband networks in areas that are already well-served with broadband or that have no people would, in effect, divert billions of dollars of capital from populated areas that are unserved or underserved.<sup>161</sup> This perverse result would slow achievement of ubiquitous broadband availability. Third, there is no reason to assume that the COLR would be the lowest-cost deployer in any given area, and thus requiring it to build the network everywhere in its service territory would inefficiently allocate the total capital available for broadband deployment.<sup>162</sup> Fourth, assuming Cal Advocates is correct that the lack of broadband service in a populated area is a “market failure,”<sup>163</sup> the generally recognized solution is public funding.<sup>164</sup> Indeed, as Cal Advocates recognizes, the government is providing billions of dollars in exchange for carriers that voluntarily agree to deploy broadband and provide broadband services under specified, time-limited obligations.<sup>165</sup> As a matter of economic and public policy, such voluntary public-private partnerships to achieve broadband availability in hard-to-serve areas are preferable

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<sup>160</sup> See Israel Reply Decl. ¶ 21.

<sup>161</sup> See *id.* ¶¶ 21–22.

<sup>162</sup> See *id.* ¶ 23.

<sup>163</sup> Cal Advocates Opening Comments at 22. As a matter of economics, the lack of service might or might not be a market failure. See *generally* Israel Reply Decl. ¶¶ 18–19.

<sup>164</sup> See Israel Reply Decl. ¶ 19 (explaining that public funding compensates for the “positive externalities” (*i.e.*, the benefits to third parties or society as a whole that do not accrue to the direct participants in the market transaction)).

<sup>165</sup> See Cal Advocates Opening Comments at 57, 77 (discussing CASF, FFA, BEAD, CHCF-A, and CHCF-B grant programs); see also, *e.g.*, *Broadband Equity, Access, and Deployment Program*, BroadbandUSA, Nat’l Telecomms. & Info. Admin., <https://broadbandusa.ntia.doc.gov/broadband-equity-access-and-deployment-bead-program#:~:text=The%20Broadband%20Equity%2C%20Access%2C%20and,and%20the%20Commonwealth%20of%20the> (last visited Oct. 15, 2024) (providing \$42.45 billion to expand high-speed internet access).

to mandating that one provider deploy.<sup>166</sup> For one thing, the existing programs incorporate a competitive bidding process notably absent from Cal Advocates’ proposal. Competitive bidding conserves resources by selecting the lowest-cost provider to build its network in unserved or underserved areas.<sup>167</sup> By instead requiring the existing COLRs to deploy broadband, Cal Advocates would forgo those efficiencies, adding to the overall expense of attaining ubiquitously available broadband.

In addition, Cal Advocates unreasonably proposes that the Commission define “broadband basic service” in this proceeding as speeds of at least 100/20 Mbps.<sup>168</sup> Lesser speeds can satisfy virtually all residential uses. Even 25/3 Mbps far exceeds the bandwidth necessary for the voice applications replacing basic telephone service.<sup>169</sup> In other words, 25/3 Mbps is more than adequate for the voice communications for which the COLR obligations were designed to ensure universal, affordable availability.

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<sup>166</sup> See Israel Reply Decl. ¶¶ 19–20.

<sup>167</sup> See *id.* ¶ 23.

<sup>168</sup> See Cal Advocates Opening Comments at 15. While 100/20 Mbps is required for BEAD funding of projects in which carriers voluntarily participate, see Nat’l Telecomms. & Info. Admin., U.S. Dep’t of Com., *Notice of Funding Opportunity: Broadband Equity, Access, and Deployment Program* 64 (2022), that does not make 100/20 Mbps appropriate for an unfunded mandate.

<sup>169</sup> See *Broadband Speed Guide*, FCC, <https://www.fcc.gov/consumers/guides/broadband-speed-guide> (last updated July 18, 2022) (noting that general browsing and email require 1 Mbps, VoIP calls require less than 0.5 Mbps, telecommuting requires 5–25 Mbps, social media require 1 Mbps, streaming HD video requires 5–8 Mbps, personal video calls like Skype require 1–1.5 Mbps, and online multiplayer games require 4 Mbps); Kristen Hollis & Trisha Jandoc, *How Much Internet Speed Should You Be Paying for?*, CNET (Oct. 15, 2024), <https://www.cnet.com/home/internet/how-much-internet-speed-do-you-really-need/> (noting that email requires 1 Mbps; web browsing, social media, and video calling each requires 3–5 Mbps; HD streaming requires 5–10 Mbps, online gaming requires 3–6 Mbps, and 4K streaming requires 25 Mbps); *How Much Bandwidth Does Skype Need?*, Microsoft, <https://support.microsoft.com/en-us/skype/howmuch-bandwidth-does-skype-need-ad0fa9d7-c6ce-44ed-a3cd-5ea982df6e2a> (last visited Oct. 11, 2024) (30kbps-100kbps for voice calls); *Zoom System Requirements: Windows, macOS, Linux*, Zoom Support, [https://support.zoom.com/hc/en/article?id=zm\\_kb&sysparm\\_article=KB0060748](https://support.zoom.com/hc/en/article?id=zm_kb&sysparm_article=KB0060748) (last visited Oct. 11, 2024) (60–80 kbps for audio VoIP and 60–100 kbps for Zoom phone); *Voice Connectivity Requirements*, Google Help, <https://support.google.com/a/answer/9206518?hl=en#zippy=%2Cbandwidthrecommendation-participant> (last visited Oct. 11, 2024) (32 kbps minimum requirement for Google Voice).

But having a COLR deploy high-speed broadband throughout its service territory still would not suffice under Cal Advocates' proposal. Cal Advocates also would have the COLR show that its service territory has "alternative communication providers ... that offer [high-speed] broadband service."<sup>170</sup> Many currently unserved areas have insufficient demand for even *one* carrier to deploy broadband without significant government support.<sup>171</sup> Requiring multiple broadband providers would challenge the economics even further, leaving this proposed criterion impossible to satisfy.

Cal Advocates does not even attempt to explain the economic rationale for its far-reaching proposals. In fact, Cal Advocates' proposal would discourage broadband deployment by *other* providers, even those already investing in buildout in the COLR's service territory.<sup>172</sup> In addition, the costs of deploying broadband in hard-to-serve, high-cost areas would reduce the COLR's ability to invest in other geographic areas.<sup>173</sup> Both effects would reduce competition everywhere. All told, the burdensome and costly mandates Cal Advocates proposes effectively would preclude any COLR from ending its obligation, ever.

In making its proposals, Cal Advocates downplays existing private and government broadband expansion efforts.<sup>174</sup> Carriers continue to devote substantial amounts of their own

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<sup>170</sup> Cal Advocates Opening Comments at 55.

<sup>171</sup> See Israel Reply Decl. ¶ 19 ("For example, some locations may lack service because the costs to serve those locations greatly exceed the price customers would be willing to pay for broadband."); see also Farm Bureau Opening Comments at 4 (noting that cost of service may be high in rural and underserved areas); Joint Commenters Opening Comments at 39–40 (contending that the CHCF-B "subsidy amount should be revised to encourage the participation of COLRs in high cost areas").

<sup>172</sup> Israel Reply Decl. ¶¶ 24–25 .

<sup>173</sup> See *id.* ¶¶ 25–26 (explaining the inefficiencies that would result from mandatory deployment of broadband services to all areas within ILECs' service territories); Israel Decl. ¶ 58 ("If the COLRs were able to operate in a more market-driven fashion, without regulatory distortion to investment, that would ... enable them to allocate investment dollars more efficiently—based on market forces rather than regulatory mandate ... .").

<sup>174</sup> Cal Advocates Opening Comments at 12.



capital to reach new customers with their broadband networks.<sup>175</sup> To supplement these investments, the federal government, in concert with California and other states, has initiated once-in-a-lifetime public funding programs to bring next-generation broadband service to hard-to-serve areas. When these efforts finish by the end of this decade, the objective is for all Californians—indeed, all Americans—to have access to broadband. Even if, as Cal Advocates suggests, these massive undertakings ultimately will prove insufficient, the Commission should seek a solution in another proceeding instead of adding to the complexity of this one.

**C. An Unduly Lengthy and Burdensome COLR Relinquishment Process Would Delay the Benefits of COLR Reform.**

As explained in AT&T California’s opening comments and summarized above, ending the COLR obligations would increase the capital available for broadband deployment, enhance competition, and reduce energy consumption.<sup>176</sup> The sooner these benefits can be realized, the better for the public. Various parties, however, advance proposals seemingly designed to tie up any COLR withdrawal with complex hurdles that could not be overcome for years, if ever.

Assuming that a COLR somehow could satisfy the prerequisites Cal Advocates proposes, Cal Advocates would freeze the status quo for years more. After a likely 18-month (or longer)

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<sup>175</sup> Cal Advocates wrongly claims that the “availability of broadband service or adoption will not increase without intervention.” *Id.* at 22. This assertion ignores the billions of dollars in capital investment providers continue to make each year in their fixed and mobile broadband networks, the billions of dollars in federal and state funding being allocated for broadband expansion in the coming years, and the continued migration of customers away from POTS to broadband services. *See* AT&T California Opening Comments at 4 (stating that “AT&T California is investing billions of dollars—mostly on its own but also with public support—to expand its broadband network in the state”); USTelecom Opening Comments at 4 & n.7 (noting that “America’s fixed broadband providers alone invested \$102.4 billion just in 2022 and a total of \$2.1 Trillion since 1996—a significant portion of which is targeted to California”); Israel Reply Decl. ¶ 26; Robert Wyrzykowski, *5G Fixed Wireless Access (FWA) Success in the US: A Roadmap for Broadband Success Elsewhere?*, Opensignal (June 6, 2024), <https://www.opensignal.com/2024/06/06/5g-fixed-wireless-access-fwa-success-in-the-us-a-roadmap-for-broadband-success-elsewhere> (“[T]he percentage of housing units that are passed by two or more high-speed broadband providers (either cable, fiber, or FWA) has increased from 50% in Q1 2022 to 78% in Q4 2023, translating into an increase of nearly 40 million homes.”).

<sup>176</sup> *See* AT&T California Opening Comments at 13–14, 24; Israel Decl. ¶¶ 16, 49–50, 54–55.

proceeding on a withdrawal application,<sup>177</sup> Cal Advocates proposes that there be a 36-month “provisional” withdrawal period.<sup>178</sup> During this period, Cal Advocates proposes there be no changes to customers’ service, thus effectively precluding the carrier from initiating the FCC’s Section 214 discontinuance process for three years.<sup>179</sup>

For their part, Joint Commenters propose that the Commission not approve an application to withdraw as a COLR “until all of its existing customers have transitioned service” to a replacement COLR or other carrier.<sup>180</sup> Of course, AT&T California’s COLR withdrawal application amply proved there is no carrier willing to serve as a COLR across AT&T California’s entire service territory.<sup>181</sup> Practically speaking, a COLR would have to retain its status indefinitely as its POTS subscribership dwindles close to zero. Should a COLR somehow surmount this hurdle, however, Joint Commenters also propose a transition period that could take years longer—first requiring a withdrawal application proceeding, which as noted above could take at least 18 months, followed by a transition period of at least 12 months after application approval during which a withdrawing COLR must continue providing service.<sup>182</sup>

**D. The Commission Should Narrowly Scope the Issues in This Proceeding To Focus on Reform of the COLR Obligations.**

Some parties would have this proceeding cover issues that are addressed by other existing rules, that are the subject of other Commission proceedings, or that clearly exceed the scope of

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<sup>177</sup> See Pub. Util. Code § 1701.5(b).

<sup>178</sup> Cal Advocates Opening Comments at 56.

<sup>179</sup> Carriers would be reluctant to petition the FCC for discontinuance of a service that still is required by state regulations.

<sup>180</sup> Joint Commenters Opening Comments at 2.

<sup>181</sup> *Decision Dismissing with Prejudice the Application of AT&T Cal. To Withdraw as a Carrier of Last Resort*, D.24-06-024, 2024 Cal. PUC LEXIS 331, at \*15 (June 25, 2024) (“[N]o carrier eligible to replace AT&T as a COLR volunteered to do so.”).

<sup>182</sup> Joint Commenters Opening Comments at 60.

this proceeding.<sup>183</sup> For example, as discussed above, Cal Advocates would have the Commission use this proceeding to shift the burden of deploying broadband to unserved areas to the COLRs.<sup>184</sup> Cal Advocates also would expand this proceeding to consider VoIP and wireless service quality—topics of other proceedings with limited nexus to the COLR regime,<sup>185</sup> and, as discussed above, beyond the Commission’s jurisdiction under federal law.<sup>186</sup> Joint Commenters similarly seek to include issues such as service quality and the maintenance of the copper wire network,<sup>187</sup> which also are the subject of the ongoing Service Quality proceeding. In addition, Cal Advocates encourages the Commission to adopt rules requiring all ILECs to adopt “Copper Retirement Customer Migration Plans.”<sup>188</sup> Cal Advocates effectively admits that this proposal exceeds this proceeding’s bounds, recommending that it apply “regardless of the ILEC’s COLR status or any intention to change COLR status.”<sup>189</sup> These proposals would hopelessly entangle this proceeding in legal issues that are entirely unnecessary to the reform of the COLR obligations, obscure the real issues at hand, and wrongfully divert resources away from careful consideration of the specific needs of areas not currently well-served by broadband. The Commission should not entertain proposals that would effectively turn this proceeding into an omnibus evaluation of regulatory issues in the telecommunications industry.

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<sup>183</sup> Joint Commenters’ suggestion that the Commission incorporate the record from the AT&T California COLR proceeding into this proceeding is misguided. *See id.* at 63–64. The record in the AT&T California COLR proceeding was not fully developed when it was stopped in the midst of prepared testimony and without an evidentiary hearing. Further, disputed facts were not submitted under oath or subject to cross-examination. The Commission cannot rely on that proceeding to make factual determinations where there was no evidentiary hearing or even completion of discovery. In addition, untested hearsay statements made during Public Participation Hearings are unreliable anecdotal evidence, not undisputed facts or verified evidence tested through cross-examination.

<sup>184</sup> *See* Cal Advocates Opening Comments at 6, 9.

<sup>185</sup> *Id.* at 12–13; *see Ord. Instituting Rulemaking Proceeding To Consider Amendments to Gen. Ord. 133, R.22-03-016, 2022 Cal. PUC LEXIS 94 (Mar. 22, 2022).*

<sup>186</sup> *See supra* Section II.D.

<sup>187</sup> Joint Commenters Opening Comments at 14–15.

<sup>188</sup> Cal Advocates Opening Comments at 59–64.

<sup>189</sup> *Id.* at 60.

## VI. CONCLUSION

For the reasons shown above, the Commission should reject proposals that would, in effect, prevent any COLR withdrawals or that would turn this proceeding into a wide-ranging effort to solve all the issues affecting telecommunications in California. Instead, the Commission should adopt AT&T California's initial proposals (i) to end the COLR obligations for areas that are well-served with broadband; (ii) to end the COLR obligations for areas where (a) the census reports that there is no population, (b) the applicable COLR does not serve any customer address with basic telephone service in that census block, *and* (c) the National Broadband Map does not report any serviceable locations; (iii) to consider reforms to the CHCF-B Fund; (iv) to develop a straightforward mechanism to remove the COLR obligations in an area that becomes well-served with broadband, absent a compelling need; and (v) to convene workshops structured to refine these proposals collaboratively.

Dated: October 30, 2024.

Respectfully submitted,

AT&T California

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# **ATTACHMENT A**

**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 DECLARATION OF MARK A. ISRAEL**

**ON BEHALF OF AT&T**

**CONTENTS**

**I. QUALIFICATIONS, ASSIGNMENT, AND SUMMARY OF CONCLUSIONS .....1**

    A. QUALIFICATIONS AND ASSIGNMENT .....1

    B. SUMMARY OF CONCLUSIONS .....2

**II. THE COLR OBLIGATION SHOULD REFLECT THE CURRENT ECONOMICS OF THE INDUSTRY AND SHOULD NOT BE INDEFINITE .....6**

**III. REGULATING BROADBAND AS A “BASIC SERVICE” WOULD HARM CONSUMERS BY INHIBITING COMPETITION AND DISCOURAGING FUTURE INVESTMENT IN BROADBAND .....7**

    A. MARKET COMPETITION LED TO DEPLOYMENT AND ADOPTION OF MODERN BROADBAND NETWORKS .....7

    B. POLICYMAKERS RECOGNIZE THAT ACHIEVING BROADBAND DEPLOYMENT IN HARD-TO-SERVE AREAS BENEFITS FROM PUBLIC SUPPORT AND QUID-PRO-QUO-BASED VOLUNTARY PARTICIPATION BY PROVIDERS.....12

    C. PAO’S AND JOINT COMMENTERS’ BASIC SERVICE PROPOSALS ARE INEFFICIENT WAYS TO STIMULATE DEPLOYMENT OF BROADBAND SERVICE .....14

    D. PAO’S AND JOINT COMMENTERS’ BASIC SERVICE PROPOSALS WOULD HARM COMPETITION BY IMPOSING SIGNIFICANT CONSTRAINTS ON ONLY ONE PROVIDER IN AN AREA.....15

    E. PAO’S AND JOINT COMMENTERS’ BASIC SERVICE PROPOSALS WOULD DISCOURAGE BROADBAND DEPLOYMENT BY ALL PROVIDERS.....16

**IV. EQUAL’S PROPOSAL RESTS ON A FALSE PREMISE THAT AT&T DOES NOT OWN ITS NETWORKS, IS INEFFICIENT AS A MATTER OF ECONOMICS, AND DOES NOT ADDRESS INEFFICIENCIES ASSOCIATED WITH THE COLR OBLIGATION IN THE PRESENCE OF COMPETITION .....18**

**ATTACHMENT A: MATERIALS RELIED UPON ..... A-1**

## **I. QUALIFICATIONS, ASSIGNMENT, AND SUMMARY OF CONCLUSIONS**

### **A. QUALIFICATIONS AND ASSIGNMENT**

1. I have previously submitted a declaration in this matter.<sup>1</sup> My qualifications and CV are attached to that declaration.

2. In my opening declaration, I explained that applying core principles of economics to the relevant facts and data yields the following principal conclusion: Universal access to voice services is an important policy goal, but, even as that goal is pursued, it is important to recognize that regulation comes with both benefits and costs, and policymakers should be prepared to adjust regulations as circumstances change. In light of the costs of regulation and the need to adapt to the specific circumstances of different areas, there are at least two types of geographic areas where the COLR obligation does not make economic sense today:

- First are areas that are well-served by broadband today because the presence of broadband services also indicates the presence of voice services. And evidence from the marketplace indicates consumers overwhelmingly prefer available fixed and mobile alternatives to legacy POTS, and where there is broadband availability, competition also ensures that voice services will be available.
- Second are areas that are uninhabited, lack POTS customers, and lack serviceable locations, as such areas pose no concern regarding universal access.

3. I have been asked to review and respond to comments and proposals in this proceeding from the Public Advocates Office (“PAO”);<sup>2</sup> The Utility Reform Network (“TURN”), the Communications Workers of America (“CWA”), District 9, and the Center for

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1. Declaration of Mark A. Israel, September 30, 2024 (“Israel Declaration”), Attachment B to Pacific Bell Telephone Company D/B/A AT&T California’s (U 1001 C) Opening Comments, R. 24-06-012, September 30, 2024 (“AT&T Opening Comments”).
  2. 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, R. 24-06-012, September 30, 2024 (“PAO Initial Proposal”).



Accessible Technology (“CforAT”), (collectively “Joint Commenters”),<sup>3</sup> and the Empowering Quality Utility Access for Isolated Localities (“EQUAL”),<sup>4</sup> (collectively “Commenters”). I do so in the remainder of this declaration. The materials I have relied on in preparing this declaration are listed in Attachment A.

**B. SUMMARY OF CONCLUSIONS**

4. Applying the teachings of economics to relevant facts and data, I reach the following conclusions:

- I disagree with all elements of Commenters’ argument that: (i) the COLR obligation should be maintained in all locations, (ii) at the COLR’s sole expense, and (iii) for an indefinite duration going forward. Consumers have overwhelmingly moved away from POTS to newer and superior technologies, as have all competing voice providers. A requirement universally to maintain POTS service under these conditions inefficiently prevents investment dollars from following consumer demand. With respect to funding, universal service is a public policy goal and thus should be a public responsibility, not one funded entirely by a single carrier by regulatory fiat as some Commenters suggest. And with respect to duration, I explained in my prior declaration that it does not make economic sense to maintain the COLR obligation in areas already well-served by broadband, and in areas that are uninhabited, lack POTS customers, and lack serviceable locations. Even in other areas, the COLR obligation should not be indefinite, and the CPUC should provide a clearly defined path for removal. (Section II.)

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3. 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 Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules, R. 24-06-012, September 30, 2024 (“Joint Commenters Initial Proposal”).
  4. Proposal of Empowering Quality Utility Access for Isolated Localities (“EQUAL”) for Changes to Carrier of Last Resort Rules in Order Instituting Rulemaking Proceeding, R. 24-06-012, September 30, 2024 (“EQUAL Initial Proposal”).

- PAO and Joint Commenters have proposed that the definition of “basic service,” which currently applies to voice service only, be revised to include broadband service as well.<sup>5</sup> I understand that a designation of broadband as a regulated basic service would imply regulation of deployment, service provision, and prices of broadband.<sup>6</sup> As a matter of economics, this proposed regulation would thwart competition in a highly competitive marketplace and discourage future investment in broadband, to the detriment of consumers.
  - **First**, PAO’s and Joint Commenters’ proposals would reverse the beneficial, deregulatory efforts of policymakers at both federal and state levels over the past decades, which have resulted in highly competitive telecommunications marketplaces in most areas within AT&T’s service territory.<sup>7</sup> Responding to this competition, providers in these areas continue to expand and upgrade their networks. Put simply, market forces have been successful at delivering a variety of communications services to a large majority of customers, and the basic service proposals from PAO and Joint Commenters would inhibit these competitive forces and harm consumers. (Section III.A.)
  - **Second**, policymakers have recognized that to the extent broadband deployment in hard-to-serve areas is a policy goal—because society as a whole may benefit from more comprehensive broadband coverage—

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5. See, PAO Initial Proposal, p. 2 and Joint Commenters Initial Proposal, pp. 37-39.

6. For example, Joint Commenters state that “[b]asic residential and business services are tariffed.” See, Joint Commenters Initial Proposal, p. 16. PAO describes a broadband deployment requirement as only applicable for the purposes of relinquishment of the voice service COLR obligation at issue in this proceeding. See, *e.g.*, PAO Initial Proposal, fn. 4. However, this claim is in tension with PAO’s proposal that a basic service designation include broadband service.

7. As I explained in my opening declaration, I refer to AT&T’s subsidiary Pacific Bell Telephone Company, d/b/a AT&T California, as AT&T for simplicity, but my analysis concerns AT&T’s subsidiary Pacific Bell and its service territory in California. See, Israel Declaration, ¶ 8.

public-private cooperation is the economically appropriate way to achieve that goal. For example, various broadband funding programs offer incentives to providers to deploy service in currently unserved or underserved areas in exchange for a time-limited obligation to provide service to all customers in those areas. Unlike such voluntary *quid pro quo* participation by providers, basic service proposals from PAO and Joint Commenters saddle one provider—out of many—with all of the costs without corresponding financial support. (Section III.B.)

- **Third**, because they rely on a regulatory mandate instead of allowing a competitive bidding process to determine the most efficient provider or providers, the proposals from PAO and Joint Commenters are an inefficient way to expand broadband access. Other providers may be able and willing to deploy broadband more efficiently than the ILECs in at least some of the areas within each ILEC’s service territory. (Section III.C.)
- **Fourth**, as I explained in my opening declaration, regulations that impose economic costs on only one provider—but not on its competitors— inhibit the overall competitive process and thus harm consumers. This happens because (i) the regulated provider is weakened by the additional costs, and (ii) other providers, not subject to this regulation, do not have to compete as vigorously against the regulated provider. (Section III.D.)
- **Fifth**, PAO’s and Joint Commenters’ proposals would devalue investments already made by competitive providers, who would then have to face a tariffed price and a deployment driven by regulatory mandate unrelated to the underlying costs of deployment. That would in turn discourage future deployment in light of that devaluation. Even the prospect of such regulation would discourage long-term planning and investment in new areas. (Section III.E.)

- EQUAL proposes that the current COLR (i) find a replacement COLR, (ii) transfer its copper network infrastructure to that replacement COLR for a “nominal amount,” and (iii) provide further financial and operational assistance to the replacement COLR during the transition. This proposal rests on a false premise that COLRs do not own their own networks, is inefficient as a matter of economics, and does not address inefficiencies associated with the COLR obligation in the presence of competition. (Section IV.)
  - EQUAL appears to attempt to justify such economic terms of transfer by implicitly claiming that COLRs do not own their networks because they “were built using ratepayer money.”<sup>8</sup> There is no economic basis for such a claim—like other competing carriers, AT&T has been investing its own capital in its network at its own risk since at least 1990. Given nearly 35 years of such risky and beneficial investment, EQUAL’s proposal is a clear economic example of an unwarranted regulatory taking as though the COLRs do not own their own networks.
  - Furthermore, the proposed transfer is not likely to have any willing participants among current COLRs because it imposes substantial costs on current COLRs and requires them to give away something of value for a “nominal amount.” EQUAL’s proposal would also discourage firms from becoming a replacement COLR because they too could be required to give away the network (including any investments they made in it) and bear additional costs if and when they decide to relinquish their COLR status in the future. This is the clear cost of engaging in regulatory taking like this; it discourages any firms from participating in the programs going forward.

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8. EQUAL Initial Proposal, p. 12.

- Finally, the proposed transfer would merely change the identity of the COLR. It does not address the fundamental inefficiencies associated with the COLR obligation in the presence of competition.

## **II. THE COLR OBLIGATION SHOULD REFLECT THE CURRENT ECONOMICS OF THE INDUSTRY AND SHOULD NOT BE INDEFINITE**

5. Commenters begin with the premise that: (i) the COLR obligation should be maintained in all locations, (ii) at the COLR's sole expense, and (iii) for an indefinite duration going forward. I disagree with all three elements of that premise.

6. First, I have previously explained that it does not make economic sense to maintain the COLR obligation in all locations. The industry has fundamentally changed since the COLR obligation was first imposed. Consumers have overwhelmingly moved away from POTS and to newer and superior technologies, as have all competing voice providers. Nearly three quarters of adults in California are "wireless only," *i.e.*, they do not have *any* landline service let alone a legacy POTS service.<sup>9</sup> And the number of landlines relying on newer alternative technologies such as Voice Over Internet Protocol ("VOIP") greatly exceeds the number of POTS landlines in California.<sup>10</sup> A requirement universally to maintain POTS service under these conditions inefficiently prevents investment dollars from following consumer demand, as would happen in an efficient marketplace.

7. Nor does it make economic sense that all costs should be borne by the COLR. Building out and maintaining networks is costly, and the COLR obligation should appropriately consider how those costs are to be funded. Universal service is a public policy goal, and should be a public responsibility, not one funded entirely by a single carrier by regulatory fiat, as some Commenters suggest. Consistent with this (and as I discuss further in Section III.B), current efforts to promote broadband deployment are based on a sharing of costs between public and private parties, and competitive bidding for deployments.

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9. Israel Declaration, ¶ 19.

10. Israel Declaration, §II.A.1.

8. The CPUC has also recognized that there should be public assistance for COLRs in high-cost areas. The California High Cost Fund-B was created to provide subsidies to COLRs for providing basic local telephone service to residential customers in high-cost areas within their service territories. However, this fund declined in size substantially over the years, from \$352 million per year in 1996 to \$22 million in the 2020-21.<sup>11</sup> Commenters suggest greatly expanding the costs imposed on COLRs. And without corresponding expansion of public funding, those proposals would exacerbate the economic distortions I have previously discussed.

9. With respect to Commenters' premise that the COLR obligation should be of indefinite duration, I explained in my prior declaration that it does not make economic sense to maintain the COLR obligation today in areas already well-served by broadband today, nor in areas that are uninhabited, lack POTS customers, and lack serviceable locations. Even in other areas, the COLR obligation should not be indefinite, and the CPUC should provide a clearly defined path for removal. For example, if it is determined that the COLR obligation can be removed in areas well-served by broadband today, then it would be economically efficient to adopt a straightforward procedure that would apply to additional areas as broadband deployment occurs there.

### **III. REGULATING BROADBAND AS A “BASIC SERVICE” WOULD HARM CONSUMERS BY INHIBITING COMPETITION AND DISCOURAGING FUTURE INVESTMENT IN BROADBAND**

#### **A. MARKET COMPETITION LED TO DEPLOYMENT AND ADOPTION OF MODERN BROADBAND NETWORKS**

10. I explained in my opening declaration that the deregulatory efforts of policymakers at all levels over the past 30 years have resulted in the proliferation of telecommunications competition. Because of this competition, broadband is widely available in most areas within AT&T's service territory today. And competitive providers continue deploying and upgrading their networks.

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11. CPUC, Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules, Rulemaking 24-06-012, June 28, 2024 (“OIR”), fn. 13.

11. The available data support the conclusion that most areas within AT&T's service territory are now well-served by facilities-based broadband providers. For example, in my opening declaration, I focused on broadband as it is currently defined by the CPUC for the purposes of its broadband mapping program, *i.e.*, broadband with speeds of at least 200 Kbps in at least one direction,<sup>12</sup> because such speeds are sufficient for voice communications at issue in this proceeding. And I showed based on the CPUC broadband data as of December 2021 that more than 99 percent of the population within AT&T's service territory has access to at least three facilities-based broadband providers.<sup>13</sup>

12. While Joint Commenters do not suggest specific minimum broadband speed requirements for "basic service," their proposal describes analyses of the CPUC broadband data using 25/3 Mbps speed thresholds (25 Mbps download and 3 Mbps upload). In contrast, PAO's proposal argues for 100/20 Mbps speed thresholds and presents analyses of the CPUC broadband data under both 25/3 and 100/20 Mbps minimum speed thresholds.<sup>14</sup> PAO's own analysis of the CPUC broadband data as of December 2021 confirms that an overwhelming majority of the population within AT&T's service territory has access to multiple broadband options based on the 25/3 Mbps broadband definition.<sup>15</sup> Specifically, PAO shows that 76.56 percent of people within AT&T's service territory have access to at least one cable (DOCSIS) option, 29.93 percent have at least one fiber option, 18.73 percent have access to at least one fixed wireless option, 95 percent have access to mobile wireless broadband from T-Mobile, and 95 percent have access to mobile wireless broadband from AT&T Mobility. While PAO does not present

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12. See, Guidelines for Broadband Data Submissions, CPUC (available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program/broadband-data-submission-guidelines-and-templates>).

13. Israel Declaration, ¶ 30.

14. PAO Initial Proposal, p. 15. I note that PAO presents no evidence that other broadband speeds, such as 25/3 Mbps, or even lower, are not sufficient for participation in society generally or for the specific uses PAO describes, *e.g.*, education, employment, healthcare, and public safety. The FCC's Broadband Speed Guide indicates no general usage exceeds 25 Mbps and most specific activities' requirements are well below 25 Mbps (available at <https://www.fcc.gov/consumers/guides/broadband-speed-guide>).

15. See, PAO Initial Proposal, Appendix D.

aggregated data that address what proportion of people within AT&T's service territory have access to at least one (or two or three) broadband providers, the summary statistics it presents are consistent with the results I presented in my opening declaration (based on the 200 Kbps speed thresholds used by the CPUC). That is, they imply that the majority of people in AT&T's service territory have access to at least three facilities-based broadband providers offering at least 25/3 Mbps service.

13. I have also documented that the number and quality of broadband options continue to grow.<sup>16</sup> For example, in my opening declaration I documented the fast-paced deployment of fixed wireless broadband services over the past several years. Consistent with this, PAO reported coverage of 18.73 percent of the population with 25/3 Mbps fixed wireless service based on December 2021 data, while the December 2023 FCC BDC data, which I also analyzed in my opening declaration, report coverage of 81.36 percent of serviceable locations within AT&T's service territory. This comparison demonstrates that fixed wireless coverage has expanded dramatically within AT&T's service territory in California over the course of only two years. And this growth is continuing: As a part of its 3Q 2024 financial reporting, Verizon announced that it has reached its fixed wireless subscriber target 15 months ahead of schedule and indicated that it is on path to further double its fixed wireless subscriber base by 2028.<sup>17</sup>

14. Similarly, as I described in my opening declaration, a new mobile wireless provider, DISH (Boost Mobile), which did not have its own facilities-based network up until a few years ago, has now deployed a modern 5G mobile wireless network that reaches more than

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16. Israel Declaration, § II.A.4.

17. "Verizon delivers strong third quarter results with customer growth in mobility, extending industry leadership," October 22, 2024 (available at <https://www.verizon.com/about/news/verizon-delivers-strong-third-quarter-results-customer-growth-mobility-extending-industry>). *See*, also, "Verizon updates broadband strategy to bring more choice, flexibility and value to millions," October 22, 2024 (available at <https://www.verizon.com/about/news/verizon-updates-broadband-strategy-bring-more-choice-flexibility-and-value-millions>).



240 million U.S. residents.<sup>18</sup> And DISH is aggressively marketing its services to customers: It recently reached an agreement with Apple to sell iPhones with Boost-branded plans via Apple stores.<sup>19</sup> DISH was not one of the providers tracked in the CPUC broadband data as of December 2021. It is, however, present in the more recent December 2023 FCC BDC data. According to the FCC BDC data, as of December 2023, DISH is offering service with at least 7/1 Mbps speeds at 65.1 percent of serviceable locations within AT&T's service territory and service with 35/3 Mbps speeds at 55.1 percent of locations.

15. Furthermore, the broadband coverage results presented by PAO exclude satellite broadband providers. These providers effectively offer ubiquitous broadband services today. For example, according to the FCC BDC data, Starlink serves almost 100 percent of locations within AT&T's service territory with 220/25 Mbps speeds.

16. PAO attempts to justify its basic service proposal using four claims, one of which is a claim that broadband availability will not increase without intervention. That claim is contradicted by the deployment that has already occurred and is ongoing. Broadband availability in most areas has increased dramatically since the telecommunications markets were deregulated in the 1990s, a trend that is continuing as demonstrated above. PAO itself describes how “[o]ver nearly three decades, communications technology has progressed, and carriers continue to modernize their networks.”<sup>20</sup> In addition, significant broadband funding programs are being

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18. The recently announced merger transaction between DIRECTV and DISH's video distribution businesses does not include DISH's mobile wireless business or its satellite broadband business. In addition, AT&T (the parent company of AT&T California) is selling its remaining stake in DIRECTV. *See*, “DIRECTV to Acquire EchoStar's Video Distribution Business, Including DISH TV and Sling TV,” September 30, 2024 (available at <https://www.directv.com/insider/directv-and-dish/>).

19. *See*, PR Newswire, “Boost Mobile to Offer All-New iPhone 16, iPhone 16 Plus, iPhone 16 Pro and iPhone 16 Pro Max,” September 12, 2024 (available at <https://www.prnewswire.com/news-releases/boost-mobile-to-offer-all-new-iphone-16-iphone-16-plus-iphone-16-pro-and-iphone-16-pro-max-302246691.html>). (“Boost Mobile is the only carrier to offer \$1,000 off the iPhone 16 lineup with no trade-in required.”)

20. *See*, PAO Initial Proposal, p. 6.

implemented today and these programs are expected to increase broadband deployment further throughout California. I discuss some of these programs below.

17. It is also important to recognize that the majority of areas are ineligible for broadband buildout incentives.<sup>21</sup> For example, the current estimates of the number of locations (nationwide) expected to be eligible for the Broadband Equity, Access, and Deployment (“BEAD”) program is 5.4 million,<sup>22</sup> which implies that more than 95 percent of the roughly 115 million total serviceable locations tracked by the FCC will be ineligible.<sup>23</sup> In California, unserved and underserved locations account for an even lower percentage of total serviceable locations (3.2 percent), which means that 96.8 percent of locations are not eligible for BEAD funding.<sup>24</sup> This fact indicates a conclusion by regulators—on a forward-looking basis—that the 96.8 percent of serviceable locations already have access to broadband service and thus do not require further regulatory intervention. Once facilities are in place, providers have strong incentives to continue providing service because marginal costs of serving additional customers are small. And even if a firm goes bankrupt, those facilities do not disappear but rather continue to be available for use in providing broadband service.

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21. Areas with broadband based on fiber, cable, DSL, or licensed fixed wireless with at least 100/20 Mbps speeds and at most 100 millisecond latency would not be considered either unserved or underserved and thus would not be eligible for BEAD funding.
  22. BEAD Program: A Framework to Allocate Funding for Broadband Availability National Overview, ACA Connect, Cartesian, July 2024 (available at [https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2024/07/BEAD\\_Funding\\_National\\_Overview\\_5.0.pdf](https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2024/07/BEAD_Funding_National_Overview_5.0.pdf)).
  23. Jessica Rosenworcel, Chairwoman, “National Broadband Map 3.0: Thankful for Continued Improvements,” FCC, November 17, 2023 (available at <https://www.fcc.gov/news-events/notes/2023/11/17/national-broadband-map-30-thankful-continued-improvements#:~:text=The%20number%20of%20broadband%20serviceable,the%20construction%20of%20new%20housing.>)
  24. BEAD Program: A Framework to Allocate Funding for Broadband Availability National Overview, ACA Connect, Cartesian, July 2024, p. 8 (available at [https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2024/07/BEAD\\_Funding\\_National\\_Overview\\_5.0.pdf](https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2024/07/BEAD_Funding_National_Overview_5.0.pdf)). I understand determinations on eligibility in California have not been finalized.

**B. POLICYMAKERS RECOGNIZE THAT ACHIEVING BROADBAND DEPLOYMENT IN HARD-TO-SERVE AREAS BENEFITS FROM PUBLIC SUPPORT AND QUID-PRO-QUO-BASED VOLUNTARY PARTICIPATION BY PROVIDERS**

18. Policymakers recognize that deploying broadband in the minority of locations that are currently unserved or underserved is socially important.<sup>25</sup> Both PAO and Joint Commenters discuss such policy goals and proposals.<sup>26</sup> There are good economic reasons why the public values universal access to broadband above and beyond the benefits to individual consumers and businesses. For instance, the California Broadband for All action plan cited by PAO describes a several benefits to society including that:<sup>27</sup>

Broadband has helped ensure California’s ability to compete on the world stage for years. Broadband enables communities to build thriving economies by attracting talent and businesses. It powers California’s advancement and success in industries from higher education to manufacturing and agriculture, and in the service economy.

Given these public benefits, and because market outcomes may not achieve service for especially costly-to-serve locations, government may choose to help fund such services.

19. In economics, such benefits to society, above and beyond the benefits derived by individual residential and business consumers, are referred to as *positive externalities*. There are many examples of such phenomena. For example, education is often viewed as a source of positive externalities. In addition to private benefits of education (*e.g.*, higher earning potential for graduates), there may be societal benefits as well (due to, for example, lower crime rates often associated with a more educated population). Even well-functioning markets may not provide such positive-externalities-generating goods or services at levels that society as a whole may consider optimal. This happens because markets generally take into account only market participants’ valuations of goods and services and not any broader benefits to society. For

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25. See, *e.g.*, BEAD program, Internet for All (available at <https://www.internetforall.gov/program/broadband-equity-access-and-deployment-bead-program>).

26. See, PAO Initial Proposal, p. 12; Joint Commenters Initial Proposal, pp. 13-14.

27. See, Broadband Action Plan 2020: California Broadband for All, p. 6 (available at <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2020/12/BB4All-Action-Plan-Final.pdf>).

example, some locations may lack service because the costs to serve those locations greatly exceed the price customers would be willing to pay for broadband. As a matter of economics, if policymakers determine that such a location should nonetheless receive service because of the general benefits to society, an appropriate economic policy is public support for deployment in those areas in exchange for a well-defined obligation to provide service.

20. Consistent with this economic logic, billions of dollars of public funds are today being allocated for building out broadband options in areas that regulators find are unserved or underserved by broadband.<sup>28</sup> These arrangements are a *quid pro quo*—carriers obtain government support in exchange for specified, time-limited obligations. Carriers participate voluntarily. This contrasts with the ongoing legacy COLR obligation, where existing COLRs lack any clear mechanism for changing their obligation now or in the future, and no new carriers have expressed interest in participating.

21. The costs of serving *all* customers in a given area can be enormous, in large part because remote locations can be extremely expensive to reach. And the existing public funding is apparently insufficient to provide service to all locations within California. However, PAO’s and Joint Commenters’ proposals would effectively put all the burden of serving all locations on ILECs alone. The CPUC BEAD analysis notes that:<sup>29</sup>

Based on the modeling, an estimated \$9.78 billion investment will be needed for new fiber and equipment to serve all of these validated unserved and underserved

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28. The National Telecommunications and Information Administration (“NTIA”), which administers the BEAD Program, currently defines locations without a Reliable Broadband Service with at least 25/3 Mbps speeds and at most 100 millisecond latency as unserved, and without a Reliable Broadband Service with at least 100/20 Mbps speeds and at most 100 millisecond latency as underserved. Reliable Broadband Service may be based on fiber, cable, DSL, or licensed fixed wireless, effectively excluding satellite services or fixed wireless services based entirely on unlicensed spectrum. *See*, Internet for All: Frequently Asked Questions and Answers Draft Version 2.0, NTIA (available at [https://broadbandusa.ntia.doc.gov/sites/default/files/2022-09/BEAD-Frequently-Asked-Questions-%28FAQs%29\\_Version-2.0.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2022-09/BEAD-Frequently-Asked-Questions-%28FAQs%29_Version-2.0.pdf)).
29. State of California Five-Year Action Plan BEAD Program (“CPUC Five-Year BEAD Plan”), pp. 6-7 (available at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-implementation-for-california/bead/california-bead-five-year-action-plan---final-draft---20230828.pdf>).

locations with a fiber-to-the-premises network design, including plans for additional hardening for locations in high fire threat districts.

That \$9.78 billion figure is well in excess of the \$1.86 billion of BEAD funding allocated to California, and the CPUC BEAD analysis notes that “universal service would ... require additional federal and State funding.”<sup>30</sup> PAO also notes that “existing voluntary programs may not suffice to ensure every location in California is ultimately served by broadband.”<sup>31</sup> As a matter of economics, imposing those costs on firms with no prospect of recovering the investments from customers will have significant negative effects on investment incentives of both ILECs and other providers.

22. In fact, PAO’s proposal goes beyond requiring ILECs to deploy 100/20 Mbps service in *all* areas within their service territories. As a condition for COLR relinquishment in an area, PAO also proposes that at least some number of alternative providers *also* serve all customers in those areas with at least 100/20 Mbps broadband. Such a policy is inefficient. Some particularly costly-to-serve areas and sparsely populated areas may not justify the presence of multiple providers. Any prospect of a carrier recouping its investment in those areas will depend on demand in those areas (or public support), and in areas with little demand, it is likely impossible to recoup the costly investment in a single network, much less multiple networks.

**C. PAO’S AND JOINT COMMENTERS’ BASIC SERVICE PROPOSALS ARE INEFFICIENT WAYS TO STIMULATE DEPLOYMENT OF BROADBAND SERVICE**

23. As a matter of economics, it is inefficient to impose on one provider—out of many competing providers—the obligation to build out broadband in any specific area or location. Instead, competitive bidding can ensure that public support dollars go furthest. A provider involuntarily saddled with a regulatory obligation would not necessarily be the firm best able to build the highest quality network in the least costly way; rather, other firms may be able and willing to do it more efficiently. Policymakers recognize that fact: BEAD funding will be allocated based on a competitive bidding process. The CPUC itself “will set-up the schedule for

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30. *Id.*, pp. 7, 104.

31. PAO Initial Proposal, pp. 12-13, fn. 39.

the competitive process of selecting” providers.<sup>32</sup> The CPUC’s Five-Year Action Plan also describes other broadband programs where public funding is allocated in a competitive manner—the California Advanced Services Fund (“CASF”) and Federal Funding Account (“FFA”).<sup>33</sup> Other federal broadband support programs, such as the Rural Digital Opportunity Fund (“RDOF”) and Connect America Fund Phase II (“CAF II”), have also used competitive bidding.<sup>34</sup> Another important aspect of such bidding is that the pool of potential providers for any given area need not be limited to firms that already provide some services in those areas.

**D. PAO’S AND JOINT COMMENTERS’ BASIC SERVICE PROPOSALS WOULD HARM COMPETITION BY IMPOSING SIGNIFICANT CONSTRAINTS ON ONLY ONE PROVIDER IN AN AREA**

24. As I explained in my opening declaration, one of the reasons COLR creates economic inefficiencies in the presence of competition is that it constrains only one of the competitors. This distorts competition by impeding the regulated firm and thus both prevents the regulated firm from allocating resources optimally and discourages investment by unregulated firms, as they do not need to compete as vigorously as they would have to if the regulated firm were not operating under the regulatory constraint. This harms consumers throughout California.

25. The same type of inefficiency would apply to broadband services if it became mandatory for ILECs to provide such services within their service territories. As I described above, most areas within AT&T’s service territory are already well-served by broadband providers. In my opening declaration, I also described areas where there are no current AT&T POTS customers, no population according to the census, and no serviceable locations according to the FCC. Despite the fact that such unpopulated areas lack any demand for broadband, PAO’s

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32. “California Broadband Equity, Access, and Deployment (BEAD) Program,” CPUC (available at <https://www.cpuc.ca.gov/beadprogram?ref=techcanbebetter.com>).

33. CPUC Five-Year BEAD Plan, pp. 16-23 (available at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-implementation-for-california/bead/california-bead-five-year-action-plan---final-draft---20230828.pdf>).

34. See, e.g., FCC’s Auction 904: Rural Digital Opportunity Fund, October-November 2020 (available at <https://www.fcc.gov/auction/904>) and FCC’s Connect America Fund Phase II Auction (Auction 903) (available at <https://www.fcc.gov/auction/903>).

proposal would require ILECs to build broadband facilities there before they could relinquish their COLR status in those areas. Requiring AT&T to build new networks in both currently well-served and unpopulated areas, and to offer service at tariffed rates, will almost certainly lead to inefficient allocation of limited resources, and will distort competition and discourage competitive investment.

**E. PAO’S AND JOINT COMMENTERS’ BASIC SERVICE PROPOSALS WOULD DISCOURAGE BROADBAND DEPLOYMENT BY ALL PROVIDERS**

26. Requiring ILECs to deploy services to all locations throughout their service territory and regulating prices at which these services must be provided—both of which are implicit under the basic service proposals from PAO and Joint Commenters—would negatively impact incentives of *all* providers to deploy broadband in the future. Consider a provider who decided to deploy broadband in a given area. That decision implies that the expected benefits (the future stream of operating profits) exceed the costs of deployment. However, that conclusion would not necessarily hold if that provider expected the ILEC to be required to build networks to all locations within its service territory and to offer service to all at regulated prices, potentially lower than those that would have prevailed in an unregulated market. While any provider that has already built a network in a given area would likely continue competing and providing services because the marginal costs of serving additional customers are low compared to the provider’s substantial costs to build the network, such providers may not be able to recoup the substantial costs of building a network in the first place, and thus would be more reluctant to invest in their existing networks or to deploy new networks. The harms associated with such *ex post* changes to regulatory policy are an economic example of a regulatory taking that is likely to affect incentives of *all* providers in the future.<sup>35</sup> Simply put, providers will be less likely to

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35. See, *e.g.*, J. Gregory Sidak and Daniel F. Spulber (1996), “Deregulatory Takings and Breach of the Regulatory Contract,” *New York University Law Review*, 71(4), 851-999, p. 856. See also, Mark Armstrong and David E.M. Sappington (2007), “Recent Developments in the Theory of Regulation,” in *Handbook of Industrial Organization*, Volume 3 (Mark Armstrong and Robert Porter, eds.), Elsevier, 1560-1700, pp. 1631-32 (“Once the firm has made irreversible investments, a regulator with limited commitment powers may choose not to compensate the firm for those investments, in an attempt to

invest in broadband in California if they see a substantial risk of those investments being undermined by regulation.

27. Contrary to PAO’s claims, there is ongoing deployment that can be affected by such concerns. For example, as I described in my opening declaration, two major providers of fixed wireless broadband—T-Mobile and Verizon—are investing and expanding the deployment of fixed wireless technologies. As a part of its recently announced transaction to acquire Frontier Communications, Verizon noted that “[i]n addition to Frontier’s 7.2 million fiber locations, the company is committed to its plan to build out an additional 2.8 million fiber locations by the end of 2026.”<sup>36</sup> Race Communications recently announced that it raised more than half a billion dollars from private investors to expand its fiber networks in California.<sup>37</sup> Incentives for further deployment would be harmed if these providers expect ILECs throughout California to be required to build networks regardless of the economics of doing so and to provide services at regulated prices.

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deliver the maximum future benefits to consumers. This expropriation might take the form of low mandated future prices. Alternatively, the expropriation might arise in the form of permitting entry into the industry... When it anticipates expropriation of some form, the firm will typically undertake too little investment.”). *See also*, Paul Levine, John Stern, and Francesc Trillas (2005), "Utility Price Regulation and Time Inconsistency: Comparisons with Monetary Policy," *Oxford Economic Papers*, 2005, 57(3), 447-478, p. 449.

36. “Verizon to Acquire Frontier,” September 5, 2024 (available at <https://investor.frontier.com/news/news-details/2024/Verizon-to-acquire-Frontier/default.aspx>).

37. “Race Communications Announces New Capital Raise to Accelerate California Expansion,” September 9, 2024 (available at <https://www.prnewswire.com/news-releases/race-communications-announces-new-capital-raise-to-accelerate-california-expansion-302240943.html>).



**IV. EQUAL’S PROPOSAL RESTS ON A FALSE PREMISE THAT AT&T DOES NOT OWN ITS NETWORKS, IS INEFFICIENT AS A MATTER OF ECONOMICS, AND DOES NOT ADDRESS INEFFICIENCIES ASSOCIATED WITH THE COLR OBLIGATION IN THE PRESENCE OF COMPETITION**

28. EQUAL argues that a COLR presence is necessary to ensure access to voice services for all customers.<sup>38</sup> It further proposes the following process:<sup>39</sup>

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.

EQUAL attempts to justify such economic terms of transfer by implicitly claiming that COLRs do not own their networks because the networks “were built using ratepayer money.”<sup>40</sup> I explain in this section that there is no economic basis for such a claim. Furthermore, no COLR is likely to agree to participate in the proposed scheme. Finally, the proposed transfer would merely change the identity of the COLR and would not address inefficiencies associated with the COLR obligation in the presence of competition.

29. The premise of EQUAL’s proposal—that AT&T does not own its network (or possibly that the network is not worth anything and so a price of zero is appropriate)—is economically incorrect. Throughout its history, AT&T has been funding the buildout and continued maintenance of its network using its own capital.<sup>41</sup> I understand that prior to the 1990 New Regulatory Framework, AT&T had been regulated under a rate-of-return regime where, while investing its own funds in its network, it was allowed to recoup these investments plus a rate-of-return. However, the ultimate rate was set via regulatory proceedings. Furthermore, I

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38. EQUAL Initial Proposal, p. 11.

39. EQUAL Initial Proposal, p. 7.

40. EQUAL Initial Proposal, p. 12.

41. Pacific Bell Telephone Company d/b/a AT&T California’s (U 1001 C) Reply to the Protests of the Public Advocates Office and The Utility Reform Network and Center for Accessible Technology and Response of Rural County Representatives of California, A 23-03-003, April 17, 2023, fn. 48.

understand that AT&T has *not* been regulated under a rate-of-return regime since 1990—meaning AT&T has been making all of its network investments at its own risk for decades. In other words, just like other competing providers, AT&T has been investing its capital for the past 30+ years without any guarantees that it would be recouped. Thus, there is no economic basis to claim that AT&T’s network does not belong to AT&T and should be given away by regulatory fiat for a “nominal amount.” Instead, implementing policies that effectively take ownership of its network away from AT&T is an economic example of a regulatory taking.

30. It is difficult to see why any COLR would agree to such a scheme. Requirements to give something of value, *i.e.*, network infrastructure, away for a “nominal amount” and further provide additional financial support to the replacement COLR would impose substantial costs on current COLRs. EQUAL’s proposal would impose even further costs by effectively shifting the burden to identify a replacement COLRs onto the incumbent COLR and requiring the incumbent COLR to pay for various transition services. Even if a COLR were interested in such a scheme, it is unlikely that other firms would be interested in taking on the COLR obligation, as they in turn would be subject to giving away their investments for a “nominal amount” should they ever in turn wish to relinquish the COLR obligation. Said differently, the replacement COLR might get the network for a “nominal amount,” but it would also be aware that it would not “own” the network any more than the incumbent was deemed to “own” it. Hence, this regime would discourage the replacement COLR from making any investments into that network. Even if an incumbent did not choose to participate in the scheme, the fact of a regulatory determination that the incumbent did not actually own its own network would discourage further investment (*i.e.*, regulatory uncertainty about property rights to network assets would discourage investment in those assets). Such is the effect of implementing regulatory takings like this.

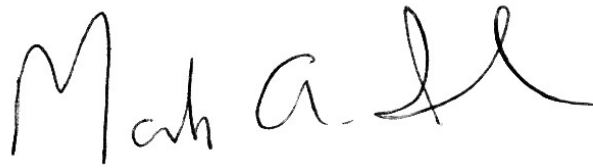
31. EQUAL’s proposal assumes there must be a COLR everywhere, but that assumption ignores the economic inefficiencies of COLR in a world with decreasing demand for POTS service and increasing competition. I have previously presented data demonstrating that the need for such copper-based services is rapidly shrinking in the face of new competitors relying on newer technologies. PAO’s own proposal, which focuses on “future-proof”

technologies, implicitly acknowledges that the demand for POTS is declining.<sup>42</sup> With respect to the increasing competition, EQUAL’s proposal does not address the fundamental economic inefficiencies resulting from a COLR obligation in the presence of competition. As I explained in my opening declaration, one economic inefficiency occurs because the COLR obligation effectively requires indefinite maintenance of a declining legacy network, which slows overall technological progress, thus harming consumers. In addition, because this obligation would apply to only one entity—be it the existing COLR or a replacement COLR—the competitive process would suffer to the detriment of all consumers. EQUAL’s proposal would only exacerbate these distortions to competition. Moreover, the replacement COLR would have little incentive to maintain or improve its network in light of the precedent that the firm would not “own” the network and might itself be subject to transferring the network—along with any investments it had made in that network—to another firm in the future for a “nominal amount.” Such an outcome is not good for competition or for consumers, who would be forced to forego benefits from market-based competition going forward.

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42. PAO Initial Proposal, pp. 23-24.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Handwritten signature of Mark A. Israel in black ink.

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Mark A. Israel

10/30/2024

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Date

**ATTACHMENT A: MATERIALS RELIED UPON**

## **Expert Report**

Declaration of Mark A. Israel, September 30, 2024

## **CPUC Filings**

CPUC, Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules, Rulemaking 24-06-012, June 28, 2024

Pacific Bell Telephone Company d/b/a AT&T California's (U 1001 C) Reply to the Protests of the Public Advocates Office and The Utility Reform Network and Center for Accessible Technology and Response of Rural County Representatives of California, A 23-03-003, April 17, 2023

Attachment B to Pacific Bell Telephone Company D/B/A AT&T California's (U 1001 C) Opening Comments, R. 24-06-012, September 30, 2024

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, R. 24-06-012, September 30, 2024

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 Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules, R. 24-06-012, September 30, 2024

Proposal of Empowering Quality Utility Access for Isolated Localities ("EQUAL") for Changes to Carrier of Last Resort Rules in Order Instituting Rulemaking Proceeding, R. 24-06-012, September 30, 2024

## **Academic Articles**

Mark Armstrong and David E.M. Sappington (2007), "Recent Developments in the Theory of Regulation," in *Handbook of Industrial Organization*, Volume 3 (Mark Armstrong and Robert Porter, eds.), Elsevier, 1560-1700

Paul Levine, John Stern, and Francesc Trillas (2005), "Utility Price Regulation and Time Inconsistency: Comparisons with Monetary Policy," *Oxford Economic Papers*, 57(3), 447-478

J. Gregory Sidak and Daniel F. Spulber (1996), "Deregulatory Takings and Breach of the Regulatory Contract," *New York University Law Review*, 71(4), 851-999

## **News Articles and Press Releases**

"Boost Mobile to Offer All-New iPhone 16, iPhone 16 Plus, iPhone 16 Pro and iPhone 16 Pro Max," September 12, 2024 (available at <https://www.prnewswire.com/news-releases/boost-mobile-to-offer-all-new-iphone-16-iphone-16-plus-iphone-16-pro-and-iphone-16-pro-max-302246691.html>)

- “DIRECTV to Acquire EchoStar’s Video Distribution Business, Including DISH TV and Sling TV,” September 30, 2024 (available at <https://www.directv.com/insider/directv-and-dish/>)
- “Race Communications Announces New Capital Raise to Accelerate California Expansion,” September 9, 2024 (available at <https://www.prnewswire.com/news-releases/race-communications-announces-new-capital-raise-to-accelerate-california-expansion-302240943.html>)
- “Verizon delivers strong third quarter results with customer growth in mobility, extending industry leadership,” October 22, 2024 (available at <https://www.verizon.com/about/news/verizon-delivers-strong-third-quarter-results-customer-growth-mobility-extending-industry>)
- “Verizon updates broadband strategy to bring more choice, flexibility and value to millions,” October 22, 2024 (available at <https://www.verizon.com/about/news/verizon-updates-broadband-strategy-bring-more-choice-flexibility-and-value-millions>)
- “Verizon to Acquire Frontier,” September 5, 2024 (available at <https://investor.frontier.com/news/news-details/2024/Verizon-to-acquire-Frontier/default.aspx>)

## **Websites**

- BEAD Program: A Framework to Allocate Funding for Broadband Availability National Overview, ACA Connect, Cartesian, July 2024 (available at [https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2024/07/BEAD\\_Funding\\_National\\_Overview\\_5.0.pdf](https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2024/07/BEAD_Funding_National_Overview_5.0.pdf))
- BEAD program, Internet for All (available at <https://www.internetforall.gov/program/broadband-equity-access-and-deployment-bead-program>)
- Broadband Action Plan 2020: California Broadband for All, (available at <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2020/12/BB4All-Action-Plan-Final.pdf>)
- CPUC Broadband Data Submissions Guidelines and Templates (available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program/broadband-data-submission-guidelines-and-templates>)
- California Broadband Equity, Access, and Deployment (BEAD) Program (available at <https://www.cpuc.ca.gov/beadprogram?ref=techcanbebetter.com>)
- FCC’s Auction 904: Rural Digital Opportunity Fund, October-November 2020 (available at <https://www.fcc.gov/auction/904>)
- FCC’s Broadband Speed Guide (available at <https://www.fcc.gov/consumers/guides/broadband-speed-guide>)
- FCC’s Connect America Fund Phase II Auction (Auction 903) (available at <https://www.fcc.gov/auction/903>)

Internet for All: Frequently Asked Questions and Answers Draft Version 2.0, NTIA (available at [https://broadbandusa.ntia.doc.gov/sites/default/files/2022-09/BEAD-Frequently-Asked-Questions-%28FAQs%29\\_Version-2.0.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2022-09/BEAD-Frequently-Asked-Questions-%28FAQs%29_Version-2.0.pdf))

Jessica Rosenworcel, Chairwoman, “National Broadband Map 3.0: Thankful for Continued Improvements,” FCC, November 17, 2023 (available at <https://www.fcc.gov/news-events/notes/2023/11/17/national-broadband-map-30-thankful-continued-improvements#:~:text=The%20number%20of%20broadband%20serviceable,the%20construction%20of%20new%20housing>)

State of California Five-Year Action Plan BEAD Program (available at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-implementation-for-california/beat/california-bead-five-year-action-plan---final-draft---20230828.pdf>)

### **Data Sources**

FCC National Broadband Map (FCC BDC data) as of December 2023, available at <https://broadbandmap.fcc.gov/home>