

**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.

Rulemaking 24-06-012

**REPLY COMMENTS OF COMCAST PHONE OF CALIFORNIA, LLC (U-5698-C) ON  
ORDER INSTITUTING RULEMAKING PROCEEDING TO CONSIDER CHANGES  
TO THE COMMISSION'S CARRIER OF LAST RESORT RULES**

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Pursuant to Rule 6.2 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Comcast Phone of California, LLC (U-5698-C), on behalf of itself and its affiliates (collectively, “Comcast”), respectfully replies to comments on the June 28, 2024 Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules (“OIR”).

**I. INTRODUCTION AND SUMMARY**

The OIR raises timely questions regarding whether carrier of last resort (“COLR”) obligations remain necessary in today’s competitive communications market and whether related definitions and service areas should be reexamined. Comcast agrees with many commenters that “[t]he time has come for the Commission to reform its COLR rules”<sup>1</sup> and applauds the Commission for undertaking that work.

Comcast supports the positions stated by the California Broadband & Video Association (“CalBroadband”) in response to the initial proposals and files this reply because the record demonstrates that strong competition in the voice services market has rendered the COLR construct increasingly obsolete.

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<sup>1</sup> AT&T Comments at 3; *see also infra*, notes 3 and 27 (collecting comments proposing various reforms).

Comcast therefore proposes that the Commission should:

- *First*, remove mandatory COLR obligations in areas with effective competition for voice services through an efficient, data-driven process.
- *Second*, as competition continues to develop, revisit the need for COLRs and ultimately eliminate the COLR framework when it is unnecessary to ensure ubiquitous access to voice services.

## **II. THE COLR FRAMEWORK IS INCREASINGLY OUTDATED.**

As the OIR acknowledges, the concept of a COLR has its roots in the early days of telephone regulation, when telecommunications services were provided by monopoly carriers. While COLRs may have been necessary at that time, the record demonstrates that today's competitive voice services marketplace bears little resemblance to the monopolistic era in which the carrier of last resort framework was born. First, competitive local exchange carriers entered the markets of the incumbent local exchange carriers and provided new voice services competition for households that previously only had one option for telephone service. Then, the advent and proliferation of new technologies that enable voice service—such as wireless networks, facilities-based Voice over Internet Protocol (“VoIP”), and VoIP delivered over the top of fiber, cable, fixed wireless, and satellite broadband networks (“OTT VoIP”)—revolutionized the way people communicate. Taking advantage of these offerings, most consumers today have shifted their preferences from traditional landline POTS service to wireless and VoIP alternatives.

For many well-served Californians, competition has thus increased from just one POTS provider to multiple providers offering each type of voice technology. Fixed, mobile, and OTT VoIP providers often compete in the same areas for the same voice customers. In this competitive market, the original rationale for COLR obligations—ensuring voice service availability in the

absence of competition—no longer applies. Competition has resulted in wider service availability, improved quality, and competitive pricing without regulatory mandates.<sup>2</sup>

Many commenters recognize that COLR requirements therefore are now obsolete in many areas of California where there is competition for voice services.<sup>3</sup> Comcast agrees. In addition, as new satellite-based technologies (e.g., Low Earth Orbit (“LEO”) constellations) enter the market, and as network infrastructure continues to expand, the entire state may soon enjoy intermodal voice competition. Therefore, the Commission should ultimately find that the COLR framework itself is outdated and unnecessary for ensuring universal voice service.

### **III. COMPETITION IN THE VOICE SERVICES MARKET IS VIGOROUS AND CONTINUES TO GROW.**

The record shows that, by a number of measures, the vast majority of California households have multiple options for voice providers, and universal voice service has been achieved for nearly all Californians.<sup>4</sup> CalBroadband’s comments demonstrate that there is “an extremely small number of customers who actually lack [] competitive choices for voice service.”<sup>5</sup> And FCC Form 477 data as of June 2021 shows that 98.9% of Californians are

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<sup>2</sup> See CalBroadband Comments at 2 (citing R.22-03-016, CCTA Opening Comments, Attachment A, *Out of Sync: Outdated Financial and Operational Reporting for Competitive VoIP Providers* (Dec. 21, 2022) (“Brattle Report”)).

<sup>3</sup> See Consolidated Comments at 3 (The COLR designation is “an outdated concept that is a relic of rate-of-return regulation and incompatible with the modern competitive environment.”); Frontier Comments at 1 (“The concept of COLR is outdated, and incompatible with the competitive modern telecommunications marketplace.”); TDS Companies Comments at 5 (“The COLR concept is outdated.”).

<sup>4</sup> In 2016, the Commission found that only 0.2% of California households were in census blocks with only one voice provider, and competition has only increased since then. See I.15-11-007, Staff Report, *Report of the Communications Division Pursuant to Ordering Paragraph 3 of Decision 16-12-025 Analyzing the California Telecommunications Market* at 27 (Dec. 2018).

<sup>5</sup> CalBroadband Comments at 3 (citing Brattle Report at 11).

covered by *four or more* voice providers and 99.6% are covered by *three or more* voice providers.<sup>6</sup> Almost 100% of the state’s population has access to at least two voice providers.<sup>7</sup>

Other parties agree. TDS Companies highlights the Commission’s longstanding findings—expressed nearly a decade ago in D.16-12-025—that “[c]ompetition in this consumer intermodal voice market, as measured by service deployment and market concentration, appears strong.”<sup>8</sup> Frontier notes that, in populated areas, “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. Likewise, in these environments, there is a multiplicity of alternatives for voice service.”<sup>9</sup> Consolidated reports that at least 99% of customer locations in its service territory have access to one or more fixed alternatives for voice service (including at least one wireline alternative), and nearly 100% of these locations have three mobile wireless alternatives.<sup>10</sup>

In light of these intermodal alternatives, it is crucial that the Commission assess voice competition in accordance with today’s marketplace realities and recognize that consumers enjoy a wide variety of voice services to choose from. Consumers do not limit themselves to landline telephones or fixed VoIP services; to the contrary, they are increasingly choosing alternative options instead.<sup>11</sup> The migration away from landline telephones to mobile phones is long established, and mobile service has become the first choice for voice both in and out of the home

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<sup>6</sup> *Id.* at 5-6 (citing Brattle Report at 13-14).

<sup>7</sup> *Id.* at 6 (citing Brattle Report at 14).

<sup>8</sup> TDS Companies Comments at 2-3 (citing D.16-12-025 at 184-85).

<sup>9</sup> Frontier Comments at 2.

<sup>10</sup> Consolidated Comments at 4.

<sup>11</sup> *See* CalBroadband Comments at 7 (citing Brattle Report at 12).

amongst the majority of Californians.<sup>12</sup> While wireless network coverage may not yet be universal in California, it is moving toward that goal. For example, mobile voice providers are attempting to eliminate gaps in their network coverage by transitioning their customers to a complementary satellite signal when they leave the cellular network's footprint.<sup>13</sup> Even before that goal is achieved, satellite capability is playing an important stop-gap role in times of emergency.<sup>14</sup>

In addition, today's consumers often use OTT VoIP services instead of traditional landline or fixed VoIP services. OTT VoIP services like Google Voice and RingCentral allow users to place and receive interconnected VoIP calls from any Internet connection, even those providing very little bandwidth,<sup>15</sup> whether they are at home and connected to their fixed broadband service or on the go and connected to mobile broadband. These and other OTT VoIP services are likely to continue to gain popularity as the broadband connections that enable them

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

<sup>13</sup> While complementary satellite coverage today supports texting, it will also support voice and data starting in 2025. *See, e.g., Elon Musk Confirms T-Mobile Will Get Exclusive Access to Starlink Mobile Internet For One Year*, Wireless Estimator (Sept. 4, 2024), <https://wirelessestimator.com/articles/2024/elon-musk-confirms-t-mobile-will-get-exclusive-access-to-starlink-mobile-internet-for-one-year/>; Press Release, Verizon, 5G + LEO: Verizon and Project Kuiper team up to develop connectivity solutions (Oct. 26, 2021), <https://www.verizon.com/about/news/5g-leo-verizon-project-kuiper-team> (announcing strategic collaboration to, among other things, expand coverage of Verizon's terrestrial mobile network).

<sup>14</sup> Just this month, Starlink received emergency special temporary authority from the FCC to provide basic texting services on T-Mobile phones in areas affected by hurricanes Helene and Milton. *See* Eva Dou & Cristiano Lima-Strong, *Helene's Aftermath Opens New Chance – And Controversy – For Musk's Starlink*, Wash. Post (Oct. 12, 2024), <https://www.washingtonpost.com/technology/2024/10/12/helene-starlink-rural-internet-connectivity-satellites-musk/>.

<sup>15</sup> OTT VoIP service requires very little bandwidth to support a high-quality voice experience. *See, e.g.,* Twilio (40kbps/40kbps) <https://www.twilio.com/docs/voice/sdks/network-connectivity-requirements>; Google Voice (50 kbps) <https://support.google.com/a/answer/9206518>; Vonage (90 kbps) <https://support.vonage.com/articles/answer/Check-Your-Internet-Speed-1060>; *see also* Brattle Report at 12-13 (discussing the provision of OTT VoIP over fixed wireless broadband).

reach remaining unserved and underserved areas in California.<sup>16</sup> Combined with ongoing private investment, unprecedented public funding for broadband infrastructure deployment through the Broadband Equity, Access, and Deployment, Federal Funding Account, and California Advanced Services Fund Broadband Infrastructure Grant Account programs will bring new high-speed connectivity to areas that historically have lacked it. Many awardees may also choose to offer their own facilities-based VoIP service to these newly served locations.

Fixed wireless services have grown throughout the state, with 1.22 million California subscribers as of July 2024.<sup>17</sup> The two largest fixed wireless providers, T-Mobile and Verizon, often bundle a home broadband service that enables OTT VoIP with a mobile phone plan.

Particularly relevant to this proceeding, LEO satellite services are emerging competitors that provide broadband services that support OTT VoIP, Wi-Fi calling on cell phones,<sup>18</sup> and also can deliver complementary satellite signals to fill in cellular coverage gaps, as described above. These services provide nearly 100% coverage across California,<sup>19</sup> including in geographically

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<sup>16</sup> While broadband-related COLR obligations would be unlawful and beyond the scope of this proceeding, *see infra*, Section IV, data indicating availability of high-speed broadband can be an effective proxy for voice competition, as commenters explain. AT&T's references to broadband should be read in that regard as evidence of the availability of facilities-based and/or OTT VoIP services. *See* AT&T Comments at 27-29. AT&T's initial proposal appropriately frames broadband access—both fixed and mobile—as a means to access voice services: “For areas that are well-served with broadband, voice service is ubiquitously available, and no COLR providing basic service is needed, at least as a general rule.” *Id.* at 27.

<sup>17</sup> John Fletcher, *Fixed Wireless Subscribers By State*, S&P Global (Aug. 28, 2024), <https://www.spglobal.com/marketintelligence/en/news-insights/research/fixed-wireless-subscribers-by-state>. On a nationwide basis, T-Mobile added 406,000 fixed wireless subscribers in the second quarter of 2024, bringing the total across the U.S. to 5.587 million. Verizon added 378,000 U.S. subscribers in the same period, with a total of 3.8 million subscribers to their fixed wireless service, Verizon 5G Home Internet. Jericho Casper, *Fixed Wireless Subscriber Growth Solid in Q2*, BroadbandBreakfast (Aug. 5, 2024), <https://broadbandbreakfast.com/fixed-wireless-subscriber-growth-solid-in-q2>.

<sup>18</sup> *See, e.g.*, Ollie Williams, *How to Use WiFi Calling On Starlink to Make or Receive Calls* (May 10, 2024), <https://cabinradio.ca/182709/news/economy/infrastructure/telecoms/how-to-use-wifi-calling-on-starlink-to-make-or-receive-calls/>.

<sup>19</sup> *See* Starlink, Availability, <https://www.starlink.com/map>.

remote locations. SpaceX's Starlink broadband service is currently available for purchase in California, and its subscribership worldwide quickly doubled from 2 million at the beginning of 2024 to 4 million by September.<sup>20</sup> Similarly, Amazon's Project Kuiper expects to begin deploying its satellite constellation in early 2025 and rolling out commercial broadband service from its LEO satellites later that year.<sup>21</sup> Although LEO satellite-based broadband service may not match the top speeds provided by terrestrial broadband providers,<sup>22</sup> it is more than sufficient to support the full array of OTT VoIP services.<sup>23</sup> In fact, Maine is coordinating the bulk purchase and deployment of LEO satellite hardware and service to up to 9,000 locations in that state, because it believes that LEO satellite services can immediately connect remote and rural locations.<sup>24</sup> Upon connection, those locations will benefit from robust competition from OTT VoIP providers for the first time.

#### **IV. COMCAST PROPOSES REDUCING, AND ULTIMATELY ELIMINATING, COLR DESIGNATIONS.**

Due to widespread competition, COLR obligations no longer make sense on a statewide or service-area-wide basis. Many commenters contend that COLRs should be relieved of

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<sup>20</sup> Aria Alamalhodaie, *Starlink Hits 4 Million Subscribers*, Tech Crunch (Sept. 26, 2024), <https://techcrunch.com/2024/09/26/starlink-will-hit-4-million-subscribers-this-week-spacex-president-says/>.

<sup>21</sup> See Thomas Kohnstamm, *Everything You Need to Know About Project Kuiper, Amazon's Satellite Broadband Network* (Oct. 3, 2024), <https://www.aboutamazon.com/news/innovation-at-amazon/what-is-amazon-project-kuiper>.

<sup>22</sup> See Jon Brodtkin, *Spacex Tells FCC it Has a Plan to Make Starlink About 10 Times Faster*, ArsTechnica (Oct. 15, 2024), <https://arstechnica.com/tech-policy/2024/10/spacex-claims-starlink-can-offer-gigabit-speeds-if-fcc-approves-new-plan/>.

<sup>23</sup> See *supra* note 15.

<sup>24</sup> Maine Connectivity Authority, Working Internet ASAP (WIA), <https://www.maineconnectivity.org/wia>.

obligations in areas with effective competition.<sup>25</sup> Comcast agrees: There is no economic or consumer protection rationale for the Commission to compel any provider to offer service in those competitive areas. Moreover, the current COLR construct is appropriately limited to traditional telephone service. The record reflects broad agreement that the Commission lacks authority to mandate that VoIP providers act as COLRs.<sup>26</sup> And as CalBroadband explains in its reply, extending COLR obligations to broadband providers or adding broadband to the definition of basic service would be unlawful and exceed the proper scope of this proceeding.<sup>27</sup>

Going forward, Comcast proposes a phased approach to modifying the COLR rules to account for both the immediate needs of California consumers and the significant changes in the communications marketplace that are expected to continue in the coming years.

*First*, the Commission should eliminate COLR obligations in areas that benefit from voice competition, because there is no need for the Commission to compel any voice provider to offer service there. If the Commission does not automatically remove COLR obligations in competitive areas, existing COLRs should be able to petition for relief from their obligations without a replacement COLR. Existing COLRs should be permitted to rely on a range of data to

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<sup>25</sup> See Frontier Comments at 1, 5 (COLR requirements should be “eliminated or significantly scaled back,” especially in “urban and suburban markets” which host “extensive” voice competition.); Small LECs Comments at 7 (“COLR designations may well be unnecessary in some areas, especially urban and suburban areas where there is extensive competition.”); TDS Companies Comments at 3 (“COLRs are unnecessary in today’s competitive intermodal voice marketplace.”).

<sup>26</sup> See Consolidated Comments at 6-7 (“Asserting jurisdiction over VoIP providers would be unlawful under both state and federal law.”); Frontier Comments at 4 (The Commission lacks authority to regulate VoIP because it is an interstate service); Small LECs Comments at 7-8 (There are significant legal obstacles to regulating VoIP as an intrastate public utility service); TDS Companies Comments at 7 (“[T]he Commission cannot lawfully assert jurisdiction over VoIP providers, nor could it compel them to be COLRs”); cf. The Utility Reform Network, Communications Workers of America, District 9, and Center for Accessible Technology Comments at 30 (It is a “thornier question” as to “whether the Commission can *require* a VoIP provider” to act as a COLR.) (emphasis in original).

<sup>27</sup> CalBroadband Reply Comments at 6-8.

demonstrate competition within their service areas. If, after considering such data, the Commission determines that a given area does not benefit from voice competition, then it is reasonable for the Commission to temporarily retain COLR obligations in that area until competition develops. During that time, the Commission should continue to impose the COLR obligation on the ILEC, which is the only provider to have ever benefited from a monopoly in the service area, rather than seeking to shift that obligation onto any other voice provider.

*Second*, given that facilities-based voice providers continue to expand their footprints and virtually all Californians will soon have access to a wide array of OTT VoIP providers, all areas of California may soon benefit from voice competition, rendering COLR obligations obsolete. Once the COLR construct is unnecessary to ensure that all Californians have access to voice services, it should be removed from the Commission's rules.

## **V. CONCLUSION**

It is evident from market conditions and the record that California is on a path toward a future where COLR requirements of any kind may be unnecessary and inadvisable. As the Commission considers modernizing its COLR rules, it should adjust its approach to ensuring universal voice service in accordance with today's competitive and technologically diverse voice services landscape. The Commission should embrace appropriate ways to reduce mandatory COLR designations in light of robust competition for voice services and ultimately consider how to phase out the COLR framework altogether.

Respectfully submitted,

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