



FILED

10/30/24

04:59 PM

R2406012

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.

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

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



Itzel Berrio Hayward
Regulatory Attorney
Small Business Utility Advocates
548 Market Street, Suite 11200
San Francisco, CA 94104
(415) 602-6223
itzel@utilityadvocates.org

Dated: October 30, 2024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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

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

I. INTRODUCTION

In accordance with the California Public Utilities Commission (Commission) Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort (COLR) Rules filed June 20, 2024 (OIR), Small Business Utility Advocates (SBUA) submits this reply to the parties' initial proposals responsive to the questions contained in the OIR filed on September 30, 2024.

In evaluating these proposals, SBUA emphasizes that the Commission has long upheld a commitment to furthering Environmental and Social Justice (ESJ) principles and to safeguarding consumer protections across the state.¹ This steadfast commitment is crucial to ensuring that all ratepayers in California have equitable access to essential telecommunication services. SBUA strongly opposes any proposals to weaken COLR obligations, as these protections are vital for underserved communities and small businesses. Rather than relaxing these requirements, as several parties suggest, SBUA advocates for maintaining strong COLR obligations. While some parties propose

¹ See Commission ESJ Action Plan Version 2.0, April 7, 2022, at 21-22.
<https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-of-vice/key-issues/esj/esj-action-plan-v2jw.pdf>.

reducing COLR requirements where alternative services exist, SBUA emphasizes that broadband must be included in the basic service definition to align with both state and federal digital equity goals, ensuring equitable access and technological neutrality. Additionally, while SBUA agrees with proposals calling for notification protocols, it emphasizes that these must be specifically designed to help small businesses and other vulnerable ratepayers adapt smoothly to any COLR changes.

II. SBUA REPLY

Maintaining stringent COLR obligations is critical to prevent service disparities. These obligations are fundamental in ensuring that basic telecommunications services are reliable and accessible to residential and small business ratepayers located in ESJ communities.² SBUA concurs with the comments of The Utility Reform Network, the Communications Workers Of America, District 9, and the Center For Accessible Technology (collectively Joint Commenters) and the Public Advocates Office (Cal Advocates) emphasizing the protection of these communities and ensuring that this matter is considered with the principles of universal service,³ reliable service, quality service, and affordable service in mind.⁴

² Environmental and Social Justice communities (or ESJ communities) were initially defined in the ESJ Action Plan as including (1) Disadvantaged Communities, (2) Low-Income Census Tracts, (3) Low-Income Households, and (4) Tribal Lands. Version 2.0 of the ESJ Action Plan includes a broad spectrum of populations that warrant prioritization in Commission policies and programs. It encourages Commission initiatives to further consider, for example, those with Access and Functional Needs (AFN), individuals with medical vulnerabilities, communities experiencing disproportionate challenges with affording utility services, unhoused individuals, or indigenous populations living off tribal lands). See Commission ESJ Action Plan at 21-22.

³ Amended Initial Proposal of The Utility Reform Network, the Communications Workers Of America, District 9, and the Center For Accessible Technology Regarding the Order Instituting Rulemaking to Consider Changes to the Commission's Carrier of Last Resort Rules, filed October 17, 2024 at 10-14.

⁴ 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, filed September 30, 2024, at 1 ("Cal Advocates offers a simple, four-point criteria to integrate these guiding

A. Criteria for COLR Withdrawals Must Be Rigorous and Transparent

SBUA supports proposals that emphasize the importance of rigorous, transparent criteria for COLR withdrawals to prevent any reduction in essential services, particularly for ratepayers in ESJ communities, including those ratepayers in rural and isolated localities.

1. Include Broadband as a Component to Basic Service

With the evolving needs and increasing dependency on digital platforms for both personal and commercial use, broadband and advanced communications technologies now represent the new standard for essential services for residential and small business ratepayers. SBUA agrees with Public Advocates' call to add a broadband basic service component to the basic service definition.⁵

2. Enhance Notification and Transition Protocols for COLR Changes

SBUA supports the Joint Commenters' recommendation to eliminate the advice letter process for providers seeking to opt out of their COLR obligations.⁶ Small businesses often lack the resources to quickly adapt to changes in their telecommunications infrastructure. The Joint Commenters' proposed revisions ensure a more transparent and rigorous review process and would allow for greater scrutiny and public input of COLR withdrawal requests, helping to maintain continuity and reliability of service, which is vital for the operational stability of small businesses.

principles into the Commission's analysis: 1) Universal service (technology-neutral); 2) Reliable service; 3) Quality service; 4) Affordable service)

⁵ *Id.* at 11-23.

⁶ Amended Initial Proposal of The Utility Reform Network, the Communications Workers Of America, District 9, and the Center For Accessible Technology ("Joint Commenters") Regarding the Order Instituting Rulemaking to Consider Changes to the Commission's Carrier of Last Resort Rules, filed October 17, 2024 at 42 *et seq.*

3. Competition Does Not Guarantee Customer Protection

SBUA opposes EQUAL's proposal allowing COLRs to withdraw if alternatives exist, as this may not adequately protect ratepayers' needs. Nor is a standard of “80% coverage by alternative service providers” – as argued in the opening comments of the TDS Companies⁷ – enough to adequately protect California’s ratepayers. As the Commission is well aware, market competition does not inherently ensure universal access, particularly not in ESJ communities.

The Commission has repeatedly witnessed service providers focusing improvements and services on specific markets, thereby neglecting or underserving areas that disproportionately contain ESJ communities harming both residential and small business ratepayers in those communities.⁸ Premature withdrawal or relaxation of COLR obligations based on perceived market competition would likely further widen the gap between residential and small business ratepayers who have access to reliable, competitive telecommunication technology and those who do not – with California’s ESJ communities being disproportionately negatively impacted yet again.

⁷ Opening Comments and Initial Proposals of Happy Valley Telephone Company (U 1010 C) Hornitos Telephone Company (U 1011 C) and Winterhaven Telephone Company (U 1021 C) (The “TDS Companies”) of Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules (filed September 30, 2024) at 2-3.

⁸ See, e.g., Proposal of Small Business Utility Advocates In Response to the Questions in the Rulemaking Proceeding To Consider Changes to the Commission’s Carrier Of Last Resort Rules (filed September 24, 2024) at footnotes 2-3 and accompanying text describing ways in which infrastructure and service investments by major providers are not evenly distributed to the detriment of ratepayers in ESJ communities.

B. COLR Obligations Should Not Be Reduced Before Alternatives Are Truly Reliable and Universally Accessible

SBUA agrees with the arguments of the Cal Advocates,⁹ the California Farm Bureau Federation,¹⁰ and EQUAL¹¹ emphasizing that alternatives to basic service must be universally available, truly reliable, of appropriate quality, and affordable before any reduction to COLR obligations is considered.¹² This will help to ensure that all Californians, especially those in ESJ communities – including remote and rural areas, have access to essential telecommunications services.

SBUA acknowledges the possibility, as suggested by CalBroadband,¹³ that technological advancements might one day render COLR obligations obsolete. However, until such advancements are equitably accessible across all communities, COLR obligations are necessary. To diminish the importance of COLR requirements is to ignore the discrepancy in the quality, accessibility, reliability, and availability of telecommunications services to ratepayers in ESJ communities as compared to other markets.

⁹ 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, filed September 30, 2024, at 43 *et seq.*

¹⁰ Comments of the California Farm Bureau Federation on the Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules, filed September 30, 2024.

¹¹ Proposal of Empowering Quality Utility Access For Isolated Localities (“EQUAL”) for Changes to Carrier of Last Resort Rules in Order Instituting Rulemaking Proceeding, filed September 30, 2024.

¹² See fn. 4 above.

¹³ Comments of the California Broadband & Video Association (“CalBroadband”) on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules (filed September 30, 2024) at 3.

III. CONCLUSION

Consistent with the Commission’s commitment to upholding ESJ principles and consumer protections in an evolving digital landscape, this reply urges the Commission to keep COLR obligations stringent and carefully consider any modifications to these obligations to avoid exacerbating disparities in telecommunication access.

Dated: October 30, 2024

Respectfully submitted,

/s/ Itzel Berrio Hayward

Itzel Berrio Hayward
Regulatory Attorney
Small Business Utility Advocates
548 Market Street, Suite 11200
San Francisco, CA 94104
(415) 602-6223
itzel@utilityadvocates.org