

**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  
USTELECOM – THE BROADBAND ASSOCIATION ON  
THE ORDER INSTITUTING RULEMAKING PROCEEDING  
TO CONSIDER CHANGES TO THE COMMISSION'S CARRIER  
OF LAST RESORT RULES**

B. Lynn Follansbee  
VP – Strategic Initiatives & Partnerships  
USTelecom – The Broadband  
Association  
601 New Jersey Avenue, N.W.  
Suite 600  
Washington, D.C. 20001  
Phone: (202) 326-7300  
Email: [lfollansbee@ustelecom.org](mailto:lfollansbee@ustelecom.org)

October 30, 2024

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Order Instituting Rulemaking Proceeding to  
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**REPLY COMMENTS OF USTELECOM – THE BROADBAND ASSOCIATION**

**I. INTRODUCTION**

USTelecom — The Broadband Association (USTelecom)<sup>1</sup> respectfully submits these reply comments in response to the California Public Utilities Commission’s (CPUC) Order Instituting Rulemaking to Consider Changes to Carrier of Last Resort (COLR) Rules<sup>2</sup> to consider whether the Commission should revise its COLR rules and, if so, what those revisions should be.<sup>3</sup> USTelecom members consist of incumbent telephone companies subject in many instances to the CPUC’s COLR obligations, that have in recent years been investing to deliver resilient, reliable, and secure 21<sup>st</sup> century broadband internet service across California. As the providers with COLR obligations in California, USTelecom members are uniquely situated to understand how the current COLR obligations not only impact the provider of service, but also consumers, and how changes to those obligations would best be implemented to ensure that Californians continue to have access to voice service and also have access to the most robust service possible in every home and business across the state.

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<sup>1</sup> USTelecom is the premier trade association representing service providers and suppliers for the communications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks. Its diverse membership ranges from international publicly traded corporations to local and regional companies and cooperatives, serving consumers and businesses in every corner of the country.

<sup>2</sup> Order Instituting Rulemaking Proceeding to Consider Changes to Carrier of Last Resort Rules, Rulemaking 24-06-12 (Jun. 20, 2024) (Order).

<sup>3</sup> See Order at 4.

## **II. THERE IS BROAD CONSENSUS THAT THE TRANSITION TO MODERN TECHNOLOGIES NECESSITATES COLR REFORM**

Public interest and industry groups agree that the expansion of multiple technologies providing broadband demonstrates a need for changes in how the Commission considers COLR obligations.<sup>4</sup> 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, yet one subset of providers maintains a COLR obligation often in areas with multiple competitors. Where there is an adequate voice alternative or there is no population in a given area, 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. This is particularly true where there are no service locations on the National Broadband Map, no basic service customers and the Census Bureau indicates the population is zero.

In its comments Cal Advocates states that the Commission's goals in evaluating whether COLR as it exists today remains necessary should be to ensure universal service throughout the state and to remain committed to technology transitions to modern communications networks on a technology-neutral basis.<sup>5</sup> Industry commenters agree.<sup>6</sup> For years USTelecom's members have been committed to the goal of closing the digital divide and have made significant investments towards that end. The rationale for a COLR requirement is to ensure that consumers have access to voice services, but we have seen in the past two decades that consumers do not have to have a particular network technology for voice service, and consumers primarily choose wireless and VoIP alternatives. Should there be any remaining COLR obligation, it should come with the flexibility for a provider to use any one of a myriad of reliable technologies to ensure the availability of voice. Furthermore, it is unnecessary to impose legacy regulations on such voice services at the state level. The important thing is to maintain

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<sup>4</sup> See *e.g., generally*, Comments of Comments of Public Advocates Office (Cal Advocates) (Sep. 30, 2024); Comments of California Farm Bureau Federation at 3 (Sep. 30, 2024) Comments of California Broadband and Video Association (CalBroadband) at 5-8 (Sep. 30, 2024); Comments of Frontier of California et al. (Frontier) at 1 (Sep. 30, 2024); Comments of Consolidated Communications of California (Consolidated) at 3-5 (Sep. 30, 2024).

<sup>5</sup> See Comments of Public Advocates Office at 43 (Sep. 30, 2024).

<sup>6</sup> See *e.g.*, Comments of CalBroadband at 5-8; Comments of Frontier at 1-2; Comments of Consolidated at 3-5.

universal access to voice communications. Striving for technologically neutral universal service and modernized networks are laudable goals and the Commission in this proceeding can relieve COLR obligations where there is competition and still ensure universal service utilizing modern technologies.

Furthermore, as noted by commenter Cal Advocates, there are already existing incentives for providers to modernize their networks for consumers<sup>7</sup> and that movement away from copper is beneficial to consumers.<sup>8</sup> Indeed for decades the broadband industry has been spending billions of dollars of their own money to upgrade networks.<sup>9</sup> Many of these broadband providers are ILECs that have sought to transition from old copper networks and provide consumers with the power and benefits of fiber broadband connectivity. Since the outbreak of the pandemic, the federal government provided even more incentive to modernize networks in the form of federal grants including the Broadband, Equity, Access and Deployment (BEAD) program which promises to finally close the digital divide and provide every consumer in California and across the country with broadband speeds of 100/20 Mbps. BEAD, combined with the current Federal Funding Account grants process<sup>10</sup> will provide significant funding for broadband in an effort to close the digital divide.<sup>11</sup> Once these broadband networks are deployed, consumers can use them for voice services, thereby negating the need for POTS service and eventually removing the need for COLR obligations to every part of the state.

All of this public and private investment and the many numbers of technologically diverse providers seeking federal subsidy proves the point that there is significant competition in the broadband marketplace. Yet, one subset of providers is held back by the requirement that they maintain their

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<sup>7</sup> See Comments of Cal Advocates at 77-78.

<sup>8</sup> See *id.* at 23.

<sup>9</sup> See USTelecom, Broadband Capex Report, Oct. 4, 2024; available at: [https://ustelecom.org/wp-content/uploads/2024/10/UST-1376-CAPEX-Report\\_2024\\_4-as-of-Oct-4.pdf](https://ustelecom.org/wp-content/uploads/2024/10/UST-1376-CAPEX-Report_2024_4-as-of-Oct-4.pdf) which shows that in 2023 Broadband providers invested \$94.7 billion in U.S. Communications Infrastructure with a total figure spent of \$2.2 trillion since 1996. The 2023 annual figure represents the second highest industry capex in 22 years, more than 23% above the historic annual average.

<sup>10</sup> See *e.g.*, “CPUC Recommends Sixth Round Grant Awards of Last Mile Broadband Infrastructure Projects Across California” (Aug.23, 2024). <https://www.cpuc.ca.gov/news-and-updates/all-news/sixth-round-of-grant-awards-for-last-mile-broadband-infrastructure-projects>

<sup>11</sup> California Broadband Equity and Deployment Program <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-implementation-for-california/bead-program>

COLR obligations and in many instances that they must also support old, outdated POTS networks. The goal should not be slowing the transition to modern service but enabling providers to spend those resources instead on building a next generation broadband network that can help narrow the digital divide.

Today's competitive marketplace is antithetical to the concept of a COLR obligation. Groups such as Cal Advocates acknowledge that COLRs compete in many areas with cable providers that do not have COLR obligations and offer suggestions for how migration away from COLR could occur.<sup>12</sup> Although Cal Advocates proposal is misguided it is clear that parties agree that there is significant competition and change is necessary to reflect that fact. This change towards alternative technologies and the widespread adoption of wireless service in particular is good for consumers, because, like fiber, in the case of outages these services are typically restored quicker than copper landline service. Whether the alternative technologies all identical is irrelevant because Californians are making individual choices about what is best for them. How much competition exists should be measured based on what households use to communicate.

### **III. COMMISSION SHOULD REVISE ITS RULES TO ALLOW FOR WITHDRAWAL WHERE THERE IS COMPETITION**

In response to the questions of whether there are regions or territories in California that may no longer require a COLR and how the Commission should distinguish between those that do and those that do not,<sup>13</sup> the majority of commenters suggest at least some change.<sup>14</sup> Utility Reform Network, et al. which seeks to maintain and, in some cases, expand COLR requirements, suggests that retention of COLR is justified because other states have declined to offer COLR relief, failing to acknowledge that in those other states, however, the state only declined to offer relief because they deemed there to be not

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<sup>12</sup> See Comments of Cal Advocates at 50-73.

<sup>13</sup> See Order at 5.

<sup>14</sup> See Comments of Cal Advocates at 50-73; Comments of Consolidated at 1-2, Comments of Happy Valley Telephone, et al. at 2-4 (Sep. 30, 2024); Comments of California Farm Bureau at 9; Comments of CalBroadband at 5-11.

enough competition or alternative to voice service.<sup>15</sup> As noted in our previous comments not only have many other states relieved carriers of their COLR obligation, they often did so precisely because there is competition in those areas.<sup>16</sup>

The fact is that the vast majority of California is a competitive telecommunications marketplace. As a result, the Commission should immediately remove COLR obligations in competitive areas. There should not be a complicated process to effectuate this. If there is competition, COLR should be relieved automatically. There is no need to complicate the process with additional burdensome data requests. The availability of service by multiple providers is evidence enough that there is competition. As explained in prior comments, the COLR framework was designed for a time when there was not a competitive environment, however, now that there is the Commission should do the obvious thing and relieve all carriers of their COLR obligation particularly where there is a technology neutral competitor.

#### **IV. CONCLUSION**

Given the broad consensus that there is a need for reform due to the changing nature of the marketplace, the Commission should act immediately to relieve COLR in those specific locations or geographic areas where competition exists. It is simply not necessary or appropriate to require a COLR for locations with alternative cable, fiber, and/or wireless voice service available. Also, the CPUC should allow any remaining COLR obligation to provide voice service using any technology, without imposing legacy regulations on those services. Furthermore, the CPUC should eliminate the COLR requirement and associated rules in its decision in this proceeding. USTelecom appreciates the

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<sup>15</sup> See Comments of Utility Reform Network, et al. at 22-23 (Sep. 30, 2024).

<sup>16</sup> See e.g., Florida (2008); Georgia (2012); Kansas (2013); Mississippi (2012); Missouri (2014); North Carolina (2011); and Tennessee (2013); Kentucky (2015/2017); Wisconsin (2011, 2-year phase in); Oklahoma (2012); Alabama (2012, 3 month phase-in); Indiana (2012, 2 year phase-in); Michigan (2014) conditioned any COLR relief on complying with requirements established by the FCC during the IP-transition trial; Ohio (2015) eliminated COLR obligations and retained state commission authority if residential customers have no competitively-priced alternative for voice service; South Carolina (2016) eliminated all remaining COLR obligations and retained state commission authority to address emergency situations if customers have no available voice service. Illinois (2017) eliminated all remaining COLR obligations, must notify residential customers and commission 255 days prior to filing FCC 214; Louisiana (2009); Texas (2011); Nevada (2013); Arkansas (2013) law provides that if a carrier is no longer an eligible telecommunications carrier under federal law, it has no state COLR obligation.

opportunity to submit this response, and USTelecom's members look forward to continuing to work with the CPUC in their commitment to providing reliable voice and high-speed broadband connectivity to all Californians.

Respectfully submitted,

*/s/ B. Lynn Follansbee*

B. Lynn Follansbee  
VP – Strategic Initiatives & Partnerships  
USTelecom – The Broadband Association  
601 New Jersey Avenue, N.W. #600  
Washington, D.C. 20001  
Phone: (202) 326-7300  
Email: [lfollansbee@ustelecom.org](mailto:lfollansbee@ustelecom.org)

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