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OF THE STATE OF CALIFORNIA

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Proceeding to Consider Changes to the
Commission's Carrier of Last
Resort Rules

Rulemaking 24-06-012

**REVISED PROPOSAL OF THE PUBLIC ADVOCATES OFFICE ON THE ORDER
INSTITUTING RULEMAKING PROCEEDING TO CONSIDER CHANGES TO THE
COMMISSION'S CARRIER OF LAST RESORT RULES**

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I. INTRODUCTION

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits this revised proposal pursuant to the June 20, 2024, *Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules* (OIR). As explained in Cal Advocates' *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* (Initial Proposal), the California Public Utilities Commission (CPUC or Commission) should adopt new Carrier of Last Resort (COLR) regulations to update COLR requirements.¹ While the revised proposal includes no changes, Cal Advocates clarifies its Initial Proposal in response to parties' comments and explains the proposed step-by-step program COLRs should follow if they seek to relinquish their COLR obligation. These rules provide open, transparent processes that inform the public of planned changes and ensure that all Californians can access modern, affordable, reliable, and resilient telecommunications service.

II. DISCUSSION

A. **The Commission should establish a planned process to follow if a COLR seeks to relinquish its COLR obligation.**

The Commission should adopt Cal Advocates' seven-stage COLR withdrawal process.² Cal Advocates clarifies its Initial Proposal as follows. First, the proposed process would apply uniformly to all COLR withdrawal applications, even if the withdrawal request does not entail immediate termination of basic service or the retirement of a copper network. A uniform approach recognizes that each unique application could implicate a multitude of future network operation and service planning scenarios. Second, the proposed New Basic Service Definition (voice and broadband at a minimum speed of 100 megabits per second download and 20 megabits per second upload (100/20 Mbps))³ would apply only to the specific area identified in the COLR withdrawal application. The New Basic Service Definition would not apply to the

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

² Initial Proposal of Cal Advocates at 54-57 and Appendix A.

³ Initial Proposal of Cal Advocates at 11, Proposed New Basic Service Definition: Voice and Broadband.

entire service area unless the COLR would apply to withdraw as the COLR for the entire service area. Third, 100% deployment of broadband service at a minimum speed of 100/20 Mbps in the withdrawal request area would be required from the applicant, regardless of existing or upcoming deployments by other carriers or providers.

The elements of each stage of the proposed process are as follows:

Stage 1

- The COLR submits a checklist and documentation. The checklist consists of 10 COLR Withdrawal Obligation Requirements.⁴
 - 1) A COLR withdrawal request area must be defined, at a minimum, at the census block group (CBG) level to prevent an erroneous determination that an “area” is served, when in fact it may not be (by cherry-picking only specific census blocks).⁵ The COLR must meet the below conditions for each census block of each CBG.
 - 2) Unless an exception applies, the COLR must have met the New Basic Service Definition (voice and broadband at speeds of at least 100/20 Mbps) by achieving deployment of such service, without data caps,⁶ to 100% of the COLR withdrawal request area on a technology-neutral basis regardless of existing or upcoming deployments by other carriers or providers.

Possible exceptions include the following circumstances:

- After receiving stakeholder input, the Commission should consider allowing COLR withdrawal without 100% broadband deployment in areas where there is no population, no current COLR basic telephone service customers, and no serviceable locations according to the FCC’s National Broadband Map.^{7 8}

⁴ Initial Proposal of Cal Advocates at 53, Proposed COLR Withdrawal Requirements.

⁵ *Reply Comments of the Public Advocates Office on the Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, October 30, 2024 (Reply Comments of Cal Advocates) at 16, FN 72.

⁶ The broadband service should not include data caps as they may be an indication that the underlying network capacity is insufficient. A data cap is a limit on how much data a user can consume on their broadband internet connection during a specific time period.

⁷ See *Pacific Bell Telephone Company D/B/A AT&T California’s (U 1001 C) Opening Comments*, September 30, 2024 (Opening Comments of AT&T) at 2.

⁸ The Commission’s evaluation should assess zoning and parcel classification (which considers input from communities on future development plans) and emergency response sites (which includes input from emergency response agencies).

- For high-cost area deployments, the Commission should consider applying the “reasonableness limitation”² to the requirement of 100% broadband deployment. However, any COLR rule revision that applies the reasonableness limitation to a COLR obligation requirement should include procedures that prevent the exclusion of vulnerable communities.¹⁰ In the context of broadband, Cal Advocates defines this exclusionary practice as resulting in “redlining”¹¹ outcomes.
- 3) The COLR must be in compliance with service quality standards (see revised GO 133-D),¹² including “reliability” and “availability” service standards. To the extent service quality standards are not yet established for broadband, the COLR must submit a Tier 3 advice letter. The advice letter must state that the service quality measurements and reporting procedures it has for the service provided is, at a minimum, the functional equivalent of established standards. This filing must further state how the service or new technology maintains essential basic service or standards.

² See *Opening Comments of Consolidated Communications of California Company (U 1015 C) On Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024 (Opening Comments of Consolidated) at 5 (stating to the extent that the COLR obligation is retained, the Commission should confirm that reasonableness limitations apply to COLR responsibilities); *Opening Comments and Initial Proposal of the TDS Companies on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024 (Opening Comments of TDS Companies) at 6; *Opening Comments of Frontier California Inc. on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort*, September 30, 2024 (Opening Comments of Frontier) at 2 (stating that the Commission should update the definition of COLR from D.96-10-066 with the more recent Legislatively defined term in Public Utilities Code (Pub. Util. Code) Section 275.6(b)(1), which confirms that a COLR is “a telephone corporation that is required to fulfill all reasonable requests for service within its service territory.”). The reasonableness clarification reflects the reality that there are some locations that simply cannot be reached without exorbitant expense.

¹⁰ Vulnerable communities include but are not limited to low-income, rural, disadvantaged, or ESJ communities and HFTD areas. Such exclusion could occur as a result of a COLR’s internal financial models and return on investment (ROI) thresholds.

¹¹ See Rulemaking (R.) 20-09-001, *Opening Comments of The Public Advocates Office on the May 28, 2021 Administrative Law Judge Ruling*, July 2, 2021 at 10 (“Redlining refers to practices in which private or public entities limit investments in the installation, expansion, or upgrading of internet service infrastructure within specific geographic areas, including, but not limited to, areas with predominantly low-income residents and communities of color. Redlining also includes practices in which private and public entities limit broadband availability or adoption in specific areas, for example Redlining could include pricing practices that make broadband less affordable, or marketing practices that under promote broadband service in particular areas. Redlining practices limit broadband access, impact service quality, and make broadband service less affordable to specific communities. These practices can contribute to socioeconomic disparities between low-income and high-income communities, and communities of color and predominantly white communities.”).

¹² R.22-03-016, *Order Instituting Rulemaking Proceeding to Consider Amendments to General Order 133*.

- 4) The COLR must provide affordable broadband service plans to consumers to ensure pricing is not a barrier for service adoption.¹³
- 5) The COLR must provide a report (at the census block and serviceable location levels) and validation that its New Basic Service can support specialized communications services such as alarm systems, elevators, health devices, and other services to people with disabilities. The report must identify a list of major customer groups, time for transitions, a list of devices that may or may not be compatible, and information related to testing of equipment. Additionally, it must incorporate workshop and hearing input from customers who utilize these devices. This report must show that these customers are not adversely impacted.
- 6) The COLR must submit a Technology Transition Plan to be reviewed and approved by the Commission. While the proposed process does not assume that the applicant will immediately carry out copper network retirement, the COLR should submit a plan for upcoming technology transition scenarios (i.e., after deployment of broadband service). The COLR's technology transition must include a transition plan for resellers that rely on the COLR's infrastructure and facilities to reach customers.
- 7) The COLR must submit a Customer Migration Plan,¹⁴ which the Commission would review and approve. The process does not assume that the applicant will immediately cease to provide basic service or carry out copper network retirement. However, the COLR should submit a plan for upcoming customer migration scenarios (i.e., after deployment of broadband service). The Customer Migration Plan must be submitted at the time the ILEC files its Section 251 Copper Retirement Network Change Notices,¹⁵ before the withdrawal application is submitted.
- 8) The COLR's service area must have alternative communication providers (the minimum number to be determined by the Commission) that offer the following: broadband service at a minimum of 100/20 Mbps, emergency services in that area (voice and broadband, 911), and the service quality standards described above (revised GO 133-D).¹⁶ Additionally, alternative communication providers must be registered or granted operating authority

¹³ R.22-03-016.

¹⁴ While the proposed process does not assume that the applicant will immediately cease to provide basic service, the carrier should provide these service plans in case it continues operating in the COLR withdrawal area.

¹⁵ See 47 C.F.R. § 51.331.

¹⁶ R.22-03-016.

- (i.e., CPCN, 1013 Registration, DIVCA Video Franchise, WIR)¹⁷ by the Commission to provide communication service in California.
- 9) The COLR must meet requirements set by the Commission pursuant to CEQA and be in compliance with Pole proceeding requirements as provided for in Rulemaking (R.) 17-06-028,¹⁸ when deploying new infrastructure or decommissioning legacy infrastructure.
 - 10) The COLR agrees to continue to participate in the California LifeLine program as a non-COLR. Because the process does not assume that the applicant will immediately cease to provide basic service, Cal Advocates expects that the applicant will continue offering this service to customers.
 - The Commission reviews the COLR’s checklist and supporting documentation.
 - 11) If the COLR meets the withdrawal requirements, the process moves to Stage 2.
 - 12) If the COLR does not meet withdrawal requirements, the process ends.

Stage 2

- In accordance with the Commission’s Rules of Practice and Procedure, Article 2, the COLR submits a withdrawal application. The withdrawal application includes a draft Application Notice¹⁹ to be issued to customers and a proposed calendar for Public Participation Hearings (PPHs).
- Assuming that the withdrawal application is otherwise compliant with Article 2, the Commission accepts the application package and publishes the application as well as the Application Notice in the Daily Calendar and approves or revises the PPH calendar.

Stage 3

The Commission reviews the withdrawal application. If the application is approved, the Commission grants a 36-month Provisional Withdrawal.²⁰

¹⁷ Certificate of Public Convenience and Necessity (CPCN), 1013 Registration pursuant to Pub. Util. Code Section 1013 (1013 Registration), Wireless ID Registration (WIR). See information at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/information-for-telecommunications-applicants-and-registrants-in-california>.

Video Franchise under the Digital Infrastructure and Video Competition Act (DIVCA). See information at <https://www.cpuc.ca.gov/regulatory-services/licensing/video-franchising/instructions-to-apply-for-a-video-franchise>.

¹⁸ R.17-06-028, *Order Instituting Rulemaking into Access by Competitive Communications Providers to California Utility Poles and Conduit, Consistent with the Commission’s Safety Regulations*.

¹⁹ Initial Proposal of Cal Advocates at 66, 3. COLR Withdrawal Customer Notices, a. The Application Notice.

²⁰ Initial Proposal of Cal Advocates at 56, b. Provisional Withdrawal Authorization.

Stage 4

- The COLR commences the 36-month Provisional Withdrawal which includes the issuance and implementation of a Customer Migration Plan, Technology Transition Plan, and Copper Retirement Notice Plan.²¹
- During the 36-month period, the Commission assesses the outcomes of the Provisional Withdrawal based on information submitted quarterly by the COLR to the Commission including the numbers of customers served and lost and service quality metrics (such as out of service metrics as defined in GO 133-D).

Stage 5

- The Commission completes its assessment of the Provisional Withdrawal.

Stage 6

- The Commission grants or rejects the COLR's application for permanent COLR obligation withdrawal. If the Commission grants the application, it provides notice to all relevant stakeholders and orders ongoing reporting requirements for the COLR.
- The COLR implements its Permanent COLR Obligation Withdrawal, including its COLR Withdrawal Transition Plan²² and COLR Withdrawal Notice Plan.²³

Stage 7

- The Commission continues to monitor the carrier and the carrier continues reporting to the Commission. The Commission will determine specific reporting requirements and frequency of reporting.

Figure 1 presents the flow chart of the seven-stage COLR withdrawal process described above.

²¹ Initial Proposal of Cal Advocates at 57-64, 2. The Commission Should Adopt Copper Retirement Customer Migration Plan Requirements and Copper Retirement Customer Protections.

²² Initial Proposal of Cal Advocates at 69-71.

²³ Initial Proposal of Cal Advocates at 71-73.

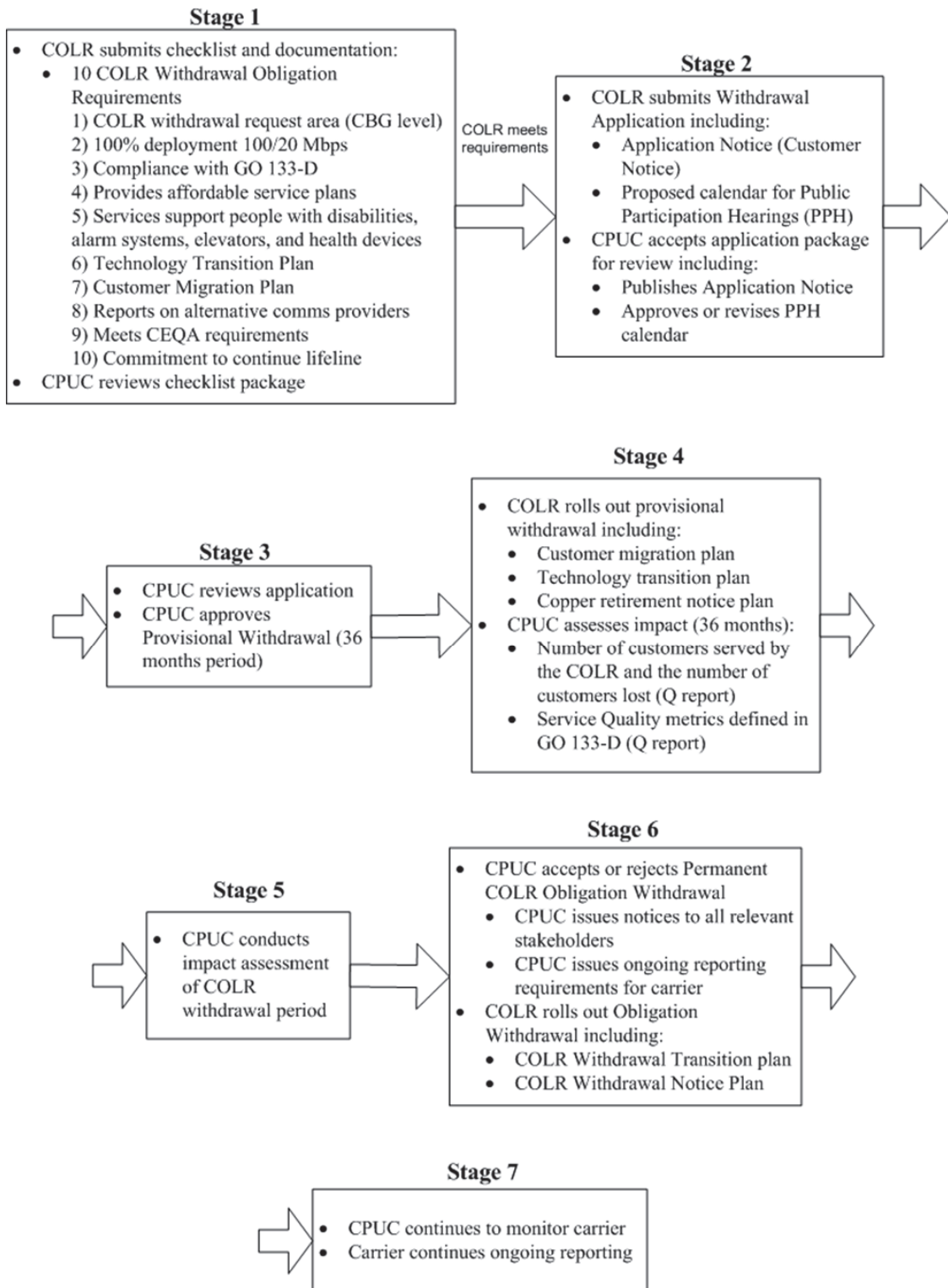


Figure 1. COLR Obligation Withdrawal Sequence Flow Diagram

1. The Commission should establish COLR geographies.

The Commission should require all COLRs to use the nationally adopted Federal Communications Commission (FCC) Study Area Boundaries (SABs).²⁴ Further, the Commission should require use of the most recently updated SAB datasets, which the FCC issues on a biennial basis.²⁵ Within those SABs, the Commission should require broadband availability reporting at the CBG and census block levels in order to allow for granular analysis of an area at issue, including underlying demographic information. Lastly, to provide for granular analysis of broadband availability, the Commission should require COLRs to report such availability using the Broadband Serviceable Location (BSLF), as issued and bi-annually updated by the FCC.²⁶

This approach to broadband data and mapping by the Commission uses data formats routinely reported to the FCC by carriers and providers, and in the FCC-established boundaries of the COLRs themselves. It will allow the Commission and the public to monitor COLR service availability using fully accessible and transparent public information.

2. The Commission should require 100% of locations to be served at 100/20 Mbps in the withdrawal request area.

The Commission should ensure universal access to essential communication services by requiring 100% deployment of broadband service at speeds of at least 100/20 Mbps in areas where a COLR applies for COLR obligation withdrawal.²⁷ This 100% deployment of broadband service should be required from the applicant regardless of existing or upcoming deployments by other carriers or providers.

²⁴ See Study Area Boundary Data. Available at: <https://www.fcc.gov/economics-analytics/industry-analysis-division/study-area-boundary-data>.

²⁵ The most recent Study Area Boundary recertifications of the FCC are based on data submitted by local exchange carriers by June 30, 2023. See *Biennial Recertification of Study Area Boundary Data Are Due No Later Than June 30, 2023*; Public Notice (DA 23-416), Rel. 05/16/23.

²⁶ See *What is the Location Fabric?* Available at: <https://help.bdc.fcc.gov/hc/en-us/articles/5375384069659-What-is-the-Location-Fabric>.

²⁷ Initial Proposal of Cal Advocates at 54 (“The COLR must have met the New Basic Service Definition (voice and broadband at speeds of at least 100/20 Mbps) by achieving deployment of such service to 100% of its COLR service area on a technology-neutral basis. The broadband service should not include data caps as they may be an indication that the underlying network capacity is insufficient.”).

Assembly Bill (AB) 3643, enacted in 1994, directed the Commission to initiate a proceeding to ensure universal telecommunications service includes “[e]ssential telecommunications services” that are “provided at affordable prices to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations.”²⁸ The COLR Rules should remain as the primary vehicle for the Commission to achieve universal service of voice and broadband services across California on a technology-neutral basis.²⁹ It is critical for communities in California to have access to the essential communications services provided by COLRs. However, as COLRs modernize their networks, no one should be abandoned with inferior service or no service at all.

Californians still lack universal access to reliable and resilient broadband service at 100/20 Mbps or faster and many have no choice between multiple providers of this essential service. More specifically, as described in the Initial Proposal:

- **Broadband service coverage at 100/20 Mbps or faster:**³⁰ Cable modem service providing 100/20 Mbps or faster service is unavailable to 27% of households (aggregated from the 16 COLR service areas), fiber optics service delivering these speeds is unavailable to 69% of households, fixed wireless service delivering 100/20 Mbps or faster is unavailable to 92% of households, and mobile broadband delivering speeds of 100/20 Mbps or faster is not available in any of the 16 COLR service areas.
- **Broadband service/provider alternatives:**³¹ Both a fiber and a cable provider do not serve 75% of aggregated households in the 16 COLR service areas; a fiber, a cable and a fixed wireless provider do not serve 97.82% of households; at least three cable or fiber providers do not serve 96.79% of households; and at least four cable, fiber or fixed providers do not serve 95.55% of households.

²⁸ Stats. 1994, Ch. 278 (Polanco and Moore).

²⁹ The adopted basic service elements are designed to apply on a technology-neutral basis to all forms of communications technology that may be utilized, including wireline, wireless, and VoIP or any other future technology that may be used in the provision of telephone service. D.12-12-038 at 2.

³⁰ Initial Proposal of Cal Advocates at 23-42, 4. Broadband Service Coverage in California. Based on CPUC Annual Collected Broadband Data. Available at: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program/cpuc-annual-collected-broadband-data>. Data as of December 31, 2021.

³¹ Initial Proposal of Cal Advocates at 2, 50-53. The Evaluation of Multiple Potential Providers and the Need for COLRs. Based on CPUC Annual Collected Broadband Data. Available at: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program/cpuc-annual-collected-broadband-data>. Data as of December 31, 2021.

To address this lack, the Commission should adopt the COLR withdrawal requirement of 100% deployment of broadband service (on a technology-neutral basis) at speeds of at least 100/20 Mbps in areas where a COLR applies for COLR obligation withdrawal.

3. The Commission should require affordable service.

The Commission should ensure universal access to essential communication services (voice and broadband) at affordable rates. The revised COLR rules should require COLRs seeking to withdraw from the COLR obligation to offer affordable broadband service plans in the withdrawal request areas. Decision (D.) 96-10-066 reaffirmed the Commission's commitment to universal service by ensuring that basic service is available throughout California at an affordable rate.³² The affordability of the New Basic Service Definition (voice and broadband) is critical to the question of whether a COLR remains necessary in a specific service area. The Commission should assess the affordability of plan choices in all COLR service areas and consider the following:

- Pricing plans for legacy services (i.e., DSL technologies) and speeds available, including terms and conditions (for example, data caps).
- Pricing plans for higher speed services (or modern services) and speeds available, including terms and conditions.
- Installation fees and any additional fees for new customers.
- Overall cost and timeline for migration from a legacy service (i.e., DSL technologies) to a modern service, both when a customer migrates between different services offered by the same provider, and when a customer migrates to different services offered by a different provider.
- Pricing that is bundled with other services.
- Access to affordable and low-income plans.

An assessment of the specific pricing items above should inform an analysis of the following concerns, and guide the Commission as it considers revised COLR rules:

- Are there any barriers for enrollment in affordable or low-income plans?
- Is pricing a barrier to a customer who may have to migrate from a legacy service to a modern service?
- Is pricing comparable within each COLR service area including in:

³² Decision (D.) 96-10-066, *Re Universal Service and Compliance with the Mandates of Assembly Bill 3643* at 1.

- Rural locations,
- Disadvantaged communities,
- Low-income areas,
- Tribal lands, and
- High Fire Threat Districts (HFTDs), and flood and tsunami hazard areas?

This assessment and analysis should ensure that affordable service plans (for voice and broadband) are available from carriers (COLRs and non-COLRs alike). In turn, pricing will not discourage service adoption, and all Californians will have access to these essential communications services. The Commission thus upholds the state’s commitment to universal service.

4. The Commission should establish transparent and responsible network modernization standards.

The Initial Proposal strongly supports investment in modern communication and broadband networks, as the current COLR rules apply on a technology-neutral basis. Indeed, the Initial Proposal recommends that broadband network deployments (at speeds of 100/20 Mbps) should be a condition of COLR obligation withdrawal. California has experienced significant communications and broadband network modernization over the last 20 years, and providers continue to carry out new network deployments. The technology transition to these modern networks must ensure that no customer is abandoned with inferior service or no service at all. This transition must also be transparent, meet customers’ communications needs, and be responsible in the sense that it ensures public safety (i.e., access to 911 and emergency services) and avoids or mitigates significant environmental impacts.

The Commission should require that upgrades to existing infrastructure and retirement of legacy facilities are carried out in a CEQA-compliant manner.^{33 34} Revision of the COLR rules relates to the retirement of lead-clad copper cable infrastructure. The retirement of such infrastructure might cause significant environmental and public health impacts because

³³ Initial Proposal of Cal Advocates at 7 and 55.

³⁴ Pursuant to CEQA, the Commission must identify and avoid or mitigate the significant environmental impacts of its actions. See Rule 2.4 (CEQA Compliance) of the Commission Rules of Practice and Procedure (Rules); and Public Resource Code (Pub. Res. Code), §§ 21080, subd. (a); 21065; and 2100, *et seq.*

unmaintained lead-clad cables can leach lead into the environment. Throughout the United States, including in California,³⁵ from the late 1800s through the 1950s, telecommunications companies hung, buried, or placed under water extensive networks of lead-clad cables, some of which are still in place.³⁶ The United States Environmental Protection Agency’s testing of soil samples contaminated by lead-clad telecommunications cables in multiple states has found lead concentrations that exceed screening levels.³⁷ Further, an Oregon study of contaminated moss samples found that “elevated lead consistently accompanies these cables and provides evidence that relic lead-sheathed telecommunication cables are releasing lead into residential neighborhoods.”³⁸

Based on these critical environmental issues, the Commission should include CEQA compliance requirements in this proceeding, particularly to evaluate COLR withdrawal (which might include future network migration and retirement) from a service territory. In particular, the Commission should consider the potential of significant environmental impacts caused by unmaintained lead-clad copper cables.

5. The Commission should establish transparent customer migration regulations.

The Initial Proposal emphasizes that customer migrations must be transparent, meet the customers’ communication needs, and be accessible to the customer. Prior to submitting a

³⁵ For example, on September 18, 2024, AT&T settled an environmental lawsuit and agreed to remove eight miles of abandoned lead-clad cables from Lake Tahoe. According to the lawsuit plaintiff, the California Sportfishing Protection Alliance, AT&T will remove over 107,000 pounds of lead. Available at: [AT&T to remove 8 miles of lead cables in Lake Tahoe after legal battle \(sfgate.com\)](https://www.sfgate.com/news/article/AT&T-to-remove-8-miles-of-lead-cables-in-Lake-Tahoe-after-legal-battle-17870000).

³⁶ See Congressional Research Service Legacy Lead-Sheathed Telecommunications Cables: Status and Issues for Congress, December 26, 2023. Available at: <https://crsreports.congress.gov/product/pdf/IF/IF12559>.

³⁷ See, for example: The United States Environmental Protection Agency (US EPA), On-Scene Coordinator (OSC), California and Coal Center Lead, Available at: [Site Profile - California and Coal Center Lead - EPA OSC Response](#); and US EPA, OSC, Louisiana Lead Cable, Available at: [Site Profile - Louisiana Lead Cable - EPA OSC Response](#).

³⁸ Shiel, A.E., Jovan, S. & Murphy, C.J. Lead-sheathed telecom cables and historic leaded gasoline emissions substantially raise environmental lead levels in Portland, Oregon. *Commun Earth Environ* 5, 384 (2024) at Conclusions. Available at: <https://doi.org/10.1038/s43247-024-01534-0>.

withdrawal application, a COLR must submit a Customer Migration Plan.³⁹ ⁴⁰ Importantly, Cal Advocates’ recommendation that the Commission require the submittal of a Customer Migration Plan does not assume that the COLR will cease to provide service. The Customer Migration Plan serves as a guide to provide transparency to customers.

a. The Commission should adopt Copper Retirement Customer Migration Plan requirements and Copper Retirement Notice Plans for customer protection.

Copper Retirement Customer Migration Plan⁴¹ requirements and Copper Retirement Customer Notice Plans⁴² protect customers during a COLR withdrawal transition.⁴³ While the relinquishment of the COLR obligation does not necessarily mean a COLR will stop offering basic service⁴⁴ or decommission its copper networks, some carriers state that the COLR obligation forces them to maintain copper networks and a withdrawal could lead to a copper network retirement.⁴⁵ Thus, it is important to have the Customer Migration Plan in place in case

³⁹ Initial Proposal of Cal Advocates at 53.

⁴⁰ The Commission should update its Customer Migration Guidelines to require in-language (for those with limited English language proficiency) public notices which notify customers living in a COLR withdrawal area. (See Mass Migration Guidelines [Revised 2010]. D.10-07-024, *Decision Adopting Guidelines for Competitive Local Exchange Carriers (CLEC) Involuntary Exits and Principles and Procedures for CLEC End-User Migrations and Modifying Mass Migration Guidelines*, July 29, 2010, Attachment 3).

⁴¹ Initial Proposal of Cal Advocates at 60-62.

⁴² Initial Proposal of Cal Advocates at 62-64.

⁴³ The Customer Migration Plan must be submitted at the time the ILEC files its Section 251 Copper Retirement Network Change Notices, before the COLR withdrawal application is submitted. (See Initial Proposal of Cal Advocates at 54).

⁴⁴ *Reply Comments of Frontier California Inc on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, October 30, 2024 (Reply Comments of Frontier) at 5 (“Frontier has no plans to cease serving customers where the COLR designation is removed; accordingly, there is no need to impose onerous, potentially confusing notice requirements on carriers seeking to remove the COLR designation.”). *Pacific Bell Telephone Company D/B/A AT&T California Reply Comments*, October 30, 2024 (Reply Comments of AT&T) at 4 (“Removal of the COLR obligations in and of itself will not allow a carrier to stop providing basic telephone service.”).

⁴⁵ The COLR obligation is technology-neutral. Therefore, providers can upgrade their networks from copper to successor networks independent of their status as a COLR, provided they continue to offer basic service and follow other COLR requirements. However, AT&T’s amended application to relinquish its COLR obligation contains the following language that suggests that COLR withdrawal will lead to more

(continued on next page)

of copper discontinuance, so that customers have the time and information needed to make informed choices when network changes occur.

A Copper Retirement Customer Migration Plan⁴⁶ is essential for customer protection, mitigates the risk that customers are abandoned, and provides transparency to customers. If a COLR decides to offer basic service through modern technologies, there must be a migration of customers off the copper network and onto the new network⁴⁷ before a copper retirement can occur. Carriers such as the TDS Companies and the Small LECs claim that the copper retirement and customer migration plans are granular, onerous, extensive, and unnecessary.⁴⁸ Further, if a COLR is granted withdrawal and plans to discontinue its copper network in withdrawal areas,⁴⁹ there must be notices to customers that ensure a transparent transition where no customer is left behind. These requirements will protect customers if they are forced to migrate from a copper network to a new network.⁵⁰ The Copper Retirement Customer Migration

copper retirements: “To satisfy its COLR obligation to provide basic telephone service, AT&T California still operates a legacy TDM network composed of copper lines and antiquated circuit switches.” Application (A.) 23-03-003, *Amended Application of Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) for Targeted Relief from its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations* at 25.

⁴⁶ Initial Proposal of Cal Advocates at 60-62.

⁴⁷ The new network should be owned either by the entity that is retiring copper or an alternative provider that customers voluntarily choose.

⁴⁸ *Reply Comments of Happy Valley Telephone Company, Hornitos Telephone Company, Winterhaven Telephone Company (The “TDS Companies”) on the Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, October 30, 2024 (Reply Comments of TDS Companies) at 8 (“Cal Advocates proposes granular, onerous, and extensive copper retirement and customer migration plans for all ILECs.”). *Reply Comments of the Independent Small LECs on the Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, October 30, 2024 (Reply Comments of Small LECs) at 2 (“Cal Advocates proposed copper migration rules are also unnecessary as copper migrations are governed by rules of the Federal Communications Commission.”).

⁴⁹ AT&T, for example, stated in its Q1 2024 earnings call that they could use fiber rollout as an opportunity to “turn down footprint,” where they could “turn out the lights, walk away, take the cost out of business.” Quote from John T. Stankey, AT&T Inc., CEO, President & Director, as recorded in REFINITIV STREETEVENTS Edited Transcript, T.N - Q1 2024 AT&T Inc Earnings Call at 17, April 24, 2024. Available at: <https://investors.att.com/~media/Files/A/ATT-IR-V2/financial-reports/t-usq-transcript-2024-04-24.pdf>.

⁵⁰ If a COLR deploys 100% broadband at speeds of at least 100/20 Mbps in the withdrawal area, the COLR can migrate customers to their new network or, if customers choose, customers can also voluntarily migrate to other providers.

Plan⁵¹ and Copper Retirement Notice Plan⁵² requirements also prevent customer confusion over whether changes will result in service disruptions and discontinuances.⁵³

The Commission should require all ILECs that intend to retire their copper networks to submit a Tier 2 advice letter containing a proposed Copper Retirement Customer Migration Plan. Upon approval of the Tier 2 advice letter, the applicant must submit a Copper Retirement Notice Plan that satisfies the requirements listed in the Initial Proposal.⁵⁴

b. The Commission should adopt transparent COLR Withdrawal Customer Notices.

The Commission should adopt COLR Withdrawal Customer Notices⁵⁵ that are comprehensive, transparent, and help customers understand the difference between a COLR withdrawal and a potential service disruption and discontinuance. Customer notices and the proposed calendar for PPHs submitted by COLRs should include clear and transparent guidelines to avoid customer confusion. The notices must be sent directly to affected customers and relevant public officials via letter, bill insert, or email. The customer notices should be sent as soon as practicable and no more than 45 days⁵⁶ after the application appears in the Commission's Daily Calendar. The PPH notices must be sent at least five days before the hearings are

⁵¹ Initial Proposal of Cal Advocates at 60-62.

⁵² Initial Proposal of Cal Advocates at 62-64.

⁵³ Opening Comments of TDS Companies at 10 (stating that “significant customer confusion could result if the notice incorrectly suggests that the carrier is withdrawing as a service provider just because it is seeking COLR relief.”). *Opening Comments of Independent Small LECs on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, September 30, 2024 (Opening Comments of Small LECs) at 11 (suggesting that not mentioning the status of the continued availability of service in notices of applications to withdraw from the COLR obligation is the solution to customer confusion on this point.). Reply Comments of AT&T at 4 (stating that “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.”).

⁵⁴ Initial Proposal of Cal Advocates at 60-64.

⁵⁵ Initial Proposal of Cal Advocates at 65-68.

⁵⁶ The 45-day requirement here is analogous to Rule 3.2(d) of the Rules, which requires entities filing an application to increase rates to provide customer notice of that application within 45 days of having filed the application, if the entity operates on a 30-day billing cycle. This provision is slightly more generous, requiring that the notice be sent/posted within 45 days of the application having been assigned an online Docket Card on the Commission’s website. This is so that a link to the Docket Card can be included in the notice.

scheduled to occur.⁵⁷ The timing of these customer notices allows for the COLR to provide clear and transparent communication to customers regarding a change in service.

Carriers such as Frontier and Consolidated claim that there is no need to impose confusing notice requirements on carriers seeking to remove the COLR designation.⁵⁸ However, in Application (A.) 23-03-003, which addressed AT&T's request to relinquish its COLR obligation, there was immense public interest and confusion about the COLR obligation and AT&T's request.⁵⁹ The recommended Application Notice described in the Initial Proposal includes information regarding the COLR withdrawal request, the location of withdrawal, if any infrastructure will be discontinued, and where more information can be found to provide customers with comprehensive and clear notice. To maintain transparency and avoid confusion, the Commission should adopt the COLR Withdrawal Customer Notice requirements⁶⁰ described in the Initial Proposal including the Application Notice⁶¹ and PPH notices.⁶²

c. The Commission should adopt COLR Withdrawal Customer Transition Plans for when the COLR is authorized to withdraw from its COLR obligation.

The Commission should adopt COLR Withdrawal Customer Transition Plans⁶³ for when the Commission approves COLR withdrawal after the 36-month Provisional Withdrawal. If the Commission approves a permanent COLR obligation withdrawal after the 36-month Provisional Withdrawal, the COLR must send out a final COLR Withdrawal Customer Transition Plan to notify customers of complete withdrawal. While a COLR Withdrawal Customer Transition Plan

⁵⁷ Initial Proposal of Cal Advocates at 65.

⁵⁸ Reply Comments of Frontier at 5 (“...accordingly, there is no need to impose onerous, potentially confusing notice requirements on carriers seeking to remove the COLR designation.”). *Reply Comments of Consolidated Communications (U1015C) on Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules*, October 30, 2024 (Reply Comments of Consolidated) at 5-6 (“Many of the proposals set forth by Cal Advocates would interfere with the COLR’s customer relationships, requiring detailed noticing and public participation hearings (PPHs) that imply that the carrier no longer intends to serve a customer.”).

⁵⁹ See A.23-03-003, which contains over 500 written public comments.

⁶⁰ Initial Proposal of Cal Advocates at 65-68.

⁶¹ Initial Proposal of Cal Advocates at 66-67.

⁶² Initial Proposal of Cal Advocates at 67.

⁶³ Initial Proposal of Cal Advocates at 68-73.

does not mean the COLR will not offer basic service, the plan is necessary to ensure that customers are aware of a change in a legal obligation that exists for their benefit and protection. Adoption of COLR Withdrawal Customer Transition Plan requirements will ensure that customers affected by a COLR change or withdrawal are aware of the changes triggered by the withdrawal.

The Commission should require COLRs seeking to end their COLR obligation to include with their withdrawal applications a draft COLR Withdrawal Customer Transition Plan that satisfies the Initial Proposal's requirements.⁶⁴⁶⁵ The Commission should review a proposed COLR Withdrawal Customer Transition Plan as a necessary component of approving the application to withdraw.

B. The Commission should update the basic service definition.

1. The Commission should establish a New Basic Service Definition to include a broadband component applicable to COLRs at the time of withdrawal.

As a condition of authorization to withdraw from the COLR obligation in a service area, the Commission should require that the COLR has deployed broadband basic service across that area.⁶⁶ Moreover, the Commission should update the present basic service definition to require infrastructure deployments that provide broadband service at speeds of at least 100/20 Mbps under these circumstances.⁶⁷

In D.96-10-066, the Commission defined "basic service" as the minimum level of service which each carrier of local exchange service is required to provide to all its customers.⁶⁸ D.12-12-038 updated the basic service elements and enumerated nine elements that each local exchange carrier must offer to customers.⁶⁹ Cal Advocates recommends updating the basic

⁶⁴ Initial Proposal of Cal Advocates at 69-71.

⁶⁵ Initial Proposal of Cal Advocates at 71-73.

⁶⁶ Initial Proposal of Cal Advocates at 11-23.

⁶⁷ The Federal Communication Commission (FCC) increased the broadband speed benchmark in March 2024 to 100/20 Mbps (FCC 24-27). The basic service definition should include broadband speeds that are consistent and in line with updated FCC broadband speed benchmark.

⁶⁸ D.96-10-066 at 160.

⁶⁹ D.12-12-038, *Decision Adopting Basic Telephone Service Revisions* at Appendix A.

service components to include broadband service and infrastructure deployment at speeds of at least 100/20 Mbps. The components of this New Basic Service Definition would be required as a condition of authorization to withdraw from the COLR obligation. The updated broadband speeds for COLR withdrawal areas are consistent with the FCC’s current definition of broadband established in its 2024 Section 706 Report.⁷⁰ In the report, the FCC states, “With respect to physical deployment, we adopt a new, long overdue, benchmark for defining advanced telecommunications capability for fixed broadband of 100 Mbps download speed paired with 20 Mbps upload speed.”⁷¹

The Commission previously defined “basic service” as a minimum level of service that residents have come to expect.⁷² The Commission later refined its definition of “basic telecommunications services” to mean “those services essential to meet universal service needs.”⁷³ In turn, “universal service” refers to communications services so essential to participation in modern life that the Commission should ensure that these services are affordable and available to all.⁷⁴

The Commission should now update its basic service components applicable to COLRs at the time of withdrawal to include broadband service and deployments at speeds of at least 100/20 Mbps. D.96-10-066 sets forth the following four criteria the Commission must consider when determining whether a service should be added as a basic service component:⁷⁵

⁷⁰ *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 22-270, 2024 Section 706 Report, March 14, 2024 (FCC 2024 Section 706 Report)(Modeled after a Congressional mandate within the bipartisan Infrastructure Investment and Jobs Act).

⁷¹ FCC 2024 Section 706 Report at 2.

⁷² D.96-10-066 at 1 (“The term ‘basic service’ for residential customers is defined to include those telephone service elements that consumers have come to expect.”).

⁷³ D.12-12-038 at 1. To expand on the “universal service needs” mentioned, this decision cites to the “principles underlying the [CPUC’s] universal telephone service goals” found in D.95-07-050, *Rulemaking on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643*; *Investigation on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643*.

⁷⁴ D.95-07-050, *Universal Service and Compliance with the Mandates of Assembly Bill 3643* at FOF 5. (“Universal service means essentially two things: 1) that a minimum level of telecommunication services is available to virtually everyone in the state; and 2) that the rates for such services remain reasonable.”).

⁷⁵ D.96-10-066, Appendix B at 160-161.

- The service is essential for participation in society. Broadband service delivered at speeds of 100/20 Mbps satisfies this condition and falls in line with federal broadband universal service goals.
- A substantial majority, 65%, of residential customers subscribe to the service. Broadband service delivered at speeds of 100/20 Mbps may satisfy this condition.
- The benefits of adding the service outweigh the costs. Broadband service delivered at speeds of 100/20 Mbps may satisfy this condition.
- Availability of the service, or subscription rates, would not increase without intervention.⁷⁶ Broadband service delivered at speeds of 100/20 Mbps satisfies this condition.

As described in the Initial Proposal, broadband offered at speeds of 100/20 Mbps may satisfy all four factors.⁷⁷ Given this, and the pace of expansion of uses for high-speed home broadband access,⁷⁸ the Commission should set a forward-looking New Basic Service Definition of 100/20 Mbps as a condition of authorization to withdraw from the COLR obligation in a service area.

2. The Commission should recognize VoIP and wireless as modern voice elements.

As stated in Cal Advocates' reply comments, when the Commission defined the core requirements of universal service in 1995, it recognized reliable voice service as the central feature of basic telephone service.⁷⁹ As of 2020, most California residents and businesses receive voice service via VoIP or wireless technology with 8.3 million VoIP lines and 44.4 million mobile voice lines.⁸⁰

In D.12-12-038, *Decision Adopting Basic Telephone Service Revisions*, the Commission updated the requirements for basic service elements and stated that these elements are designed

⁷⁶ D.96-10-066 at 161, Appendix B, Rule 4.D.3.

⁷⁷ FCC 2022 Communications Marketplace Report at 23, FCC 22-103.

⁷⁸ FCC 2024 Section 706 Report at 14, ¶25, FCC 24-27.

⁷⁹ D.95-07-050 at 49.

⁸⁰ See *Staff Report – Part 2 R.21-03-002, Order Instituting Rulemaking to Update Surcharge Mechanisms to Ensure Equity and Transparency of Fees, Taxes and Surcharges Assessed on Customers of Telecommunications Services in California*, October 2021 at 5 (“As of June 30, 2020, FCC 477 data and the 2021 Scoping Memo DR responses confirm that that there were more than 56 million lines in California subject to surcharges (excluding Lifeline subscribers). Specifically, there were approximately 4.2 million POTS lines, 8.3 million VoIP lines, and 44.4 million mobile voice lines in California.”).

to apply on a technology-neutral basis and include communication technologies such as wireline, wireless, VoIP, or any other future technology that may be used in the provision of telephone service.⁸¹ This determination recognizes the increasing diversity of choices among communications technologies since the 1990s and promotes competition by technological neutrality while preserving essential consumer protections.⁸² The requirements of basic service are technology-neutral, so the delivery of voice service via VoIP and wireless satisfies the COLR obligation. The Commission should therefore recognize VoIP and wireless as modern voice elements.

C. The Commission should require COLRs to meet network reliability and resiliency requirements.

The Commission should update network reliability and resiliency requirements to guarantee that all Californians receive access to essential telecommunications services, including during emergencies. The Initial Proposal recommends the adoption of a comprehensive basic service requirement that includes the elements of availability, reliability, service quality, and affordability.⁸³

By updating telecommunications service quality standards, the Commission will be able to ensure carriers provide voice and broadband service that meets the requirements of basic service and puts the consumer first. In doing so, the Commission will be able to more accurately determine whether a carrier can be relieved of COLR status within a specific service area. Cal Advocates maintains its position on service quality matters stated in its *Comments of the Public Advocates Office on the Administrative Law Judge's Ruling Issuing Staff Proposal* in the current service quality proceeding, *Order Instituting Rulemaking Proceeding to Consider Amendments to General Order 133*.⁸⁴ As stated, Cal Advocates urges the Commission to revise and adopt service quality metrics for traditional voice telephone service (POTS) and more modern

⁸¹ The adopted basic service elements are designed to apply on a technology-neutral basis to all forms of communications technology that may be utilized, including wireline, wireless, and VoIP or any other future technology that may be used in the provision of telephone service. D.12-12-038 at 2.

⁸² D.12-12-038 at 5.

⁸³ Initial Proposal of Cal Advocates at 2-3.

⁸⁴ *Comments of the Public Advocates Office on the Administrative Law Judge's Ruling Issuing Staff Proposal*, filed September 3, 2024 in R.22-03-016.

communication services such as VoIP and wireless service.⁸⁵ Beyond those comments, Cal Advocates additionally recommends here that service quality metrics be expanded to include broadband service.^{86 87}

Along with enforcing service quality standards for network reliability, the Commission should require that carriers maintain and upgrade their network resiliency to ensure a consistent level of service that protects public safety. In D.19-08-025, *Decision Adopting an Emergency Disaster Relief Program for Communications Service Provider Customers*, the Commission acknowledged that “the duty to furnish and maintain safe equipment and facilities that provide just and reasonable service falls squarely on telephone corporations in California.”⁸⁸ This requirement falls on all service providers, regardless of COLR status. Therefore, any service provider that seeks to relinquish its COLR obligation must comply with the network resiliency requirements established by D.19-18-025.

1. The Commission should update telecommunications service quality standards.

The Commission should update telecommunications service quality standards for the basic service. The update should guarantee that all Californians receive essential telecommunications services that prioritize service quality regulations which protect consumers and promote equitable access.

D.12-12-038 emphasized the Commission’s statutory duty to ensure that telephone corporations serve customers based on statewide service quality standards, which include network technical quality, customer service, installation, repair and billing.⁸⁹ This decision also deferred the adoption of service quality standards applicable to COLRs to future proceedings.⁹⁰ For providers offering basic service via anything besides traditional wireline telephone

⁸⁵ *Comments of the Public Advocates Office on the Administrative Law Judge’s Ruling Issuing Staff Proposal*, filed September 3, 2024 in R.22-03-016.

⁸⁶ *Assigned Commissioner’s Scoping Memo and Ruling*, filed July 22, 2024 in R.22-03-016 at 3.

⁸⁷ Expansion of the service quality metrics to include broadband service will be the focus of the Commission for Phase 2 of the above-referenced service quality proceeding.

⁸⁸ D.19-08-025, *Decision Adopting an Emergency Disaster Relief Program for Communications Service Provider Customers* (D.19-08-025) at 35.

⁸⁹ D.12-12-038 at 41.

⁹⁰ D.12-12-038 at 42.

technology, the Commission required providers to file a Tier 3 advice letter indicating the extent of:

GO 133-C service quality measurements and reporting procedures it can comply with, those it can provide functionally equivalent reports for and lastly what measurement and reporting requirements are not applicable to the technology it is using to provide basic service.⁹¹

In 2016, the Commission reaffirmed its commitment to modernize service quality standards in D.16-08-021, *Decision Adopting General Order 133-D*.⁹² This decision adopted General Order 133-D and updated minimum standards of service in the operation of public utility telephone corporations.⁹³

The Commission is currently considering amendments to GO 133-D.⁹⁴ Cal Advocates filed comments to revise and adopt comprehensive service quality metrics for traditional voice telephone service and more modern communication services such as VoIP, wireless, and broadband, which now serve as the dominant media of communication used by Californians.⁹⁵ In the GO 133 OIR, the Communications Division agreed with Cal Advocates and recommended extending service quality metrics to VoIP and wireless service.⁹⁶ The next phase of that proceeding will address service quality for broadband service.

The Commission should build on the foundation of these prior and concurrent proceedings. It should adopt comprehensive service quality standards in this proceeding that reflect the modern telecommunications landscape and ensure that all Californians have access to communications services that ensure customer protection and promote public safety.⁹⁷

⁹¹ D.12-12-038 at 56.

⁹² D.16-08-021, *Decision Adopting General Order 133-D*, issued in R.11-12-001, *Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modifications to Service Quality Rules* (GO 133 OIR).

⁹³ *General Order 133-D Rules Governing Telecommunications Services* (General Order 133-D) at 1.

⁹⁴ R.22-03-016 at 2.

⁹⁵ *Comments of the Public Advocates Office on the Administrative Law Judge's Ruling Issuing Staff Proposal*, submitted in R.22-03-016 at 1-2.

⁹⁶ *Phase One Staff Proposal – Communications Division*, issued in R.22-03-016 at 5.

⁹⁷ Pub. Util. Code, § 451 (“Every public utility shall furnish and maintain such adequate, efficient, just,

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2. The Commission should require COLRs to maintain and upgrade their networks to ensure network resiliency.

The Commission should require COLRs to maintain and upgrade their networks to ensure network resiliency across all service areas as a necessary pre-condition of the COLR withdrawal process. Sufficient network resiliency will help ensure that carriers meet conditions two and three of the COLR withdrawal process. Specifically, a COLR must provide consistent telecommunications services to all Californians within its service area to ensure: 1) deployment of speeds of at least 100/20 Mbps in 100% of its withdrawal request area, and 2) compliance with service quality standards established in GO 133-D.⁹⁸ Alongside the enforcement of comprehensive service quality standards, network resiliency is critical for upholding public safety. According to federal statute⁹⁹ and as stated within D.19-08-025, there is no federal preemption of “state police power. . .in adopting measures to ensure public safety through a functioning communications network in the event of one or more emergencies.”¹⁰⁰

A COLR plays a crucial role as the service provider within a specified service area that stands ready to provide basic service to anyone who requests it. Given the substantial number of Californians who live in areas prone to natural disasters such as wildfires (4,029,456 Californians live in HFTDs) and floods (1,287,013 Californians live in flood zones),¹⁰¹ the COLR obligation to provide basic service is exceptionally important. D.20-07-011, *Decision Adopting Wireless Provider Resiliency Strategies*, addresses the need for network resiliency by stating that “uninterrupted transport of communications is an essential pre-condition to the ability of public safety officials to communicate and coordinate with each other and with the public.”¹⁰² Network resiliency is a requirement for all telephone corporations, regardless of technology,

and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”).

⁹⁸ Initial Proposal of Cal Advocates at 54.

⁹⁹ 47 U.S.C. § 332, subd. (c)(3)(A) (“ . . .[E]xcept that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.”).

¹⁰⁰ D.19-08-025 at 35.

¹⁰¹ Initial Proposal of Cal Advocates, APPENDIX C: Demographics of the 16 COLR Service Areas.

¹⁰² D.20-07-011, *Decision Adopting Wireless Provider Resiliency Strategies* (D.20-07-011) at 13.

which is demonstrated by the Commission’s definition of resiliency for both wireless and wirelines providers.¹⁰³ This requirement aligns with the COLR obligation in that it is technology-neutral, and should therefore be enforced by the Commission on all COLRs, including those that are seeking to relinquish the COLR obligation.

Furthermore, in D.20-07-011, the Commission addressed the unprecedented climate emergency that Californians face. The Commission adopted requirements to maintain operative service sites (such as central offices, nodes, and cell towers) in Tier 2 and 3 HFTDs that provide service when power is lost.¹⁰⁴ Network reliability and resiliency are critical components of basic service, especially during emergencies like floods and wildfires. As explained in the Initial Proposal, a substantial number of Californians live in HFTDs, including 10.39% of households in AT&T’s COLR service area, 11.96% in Frontier’s, and 88.66% in the Small LECs’.¹⁰⁵

Public comments from the PPHs that took place within the A.23-03-003 proceeding call into question the network resiliency of many carriers, including those with mobile wireless networks. D.24-06-024, *Decision Dismissing with Prejudice the Application of AT&T California to Withdraw as a Carrier of Last Resort*, cited several of these public comments as evidence for concern regarding the network resiliency of many alternative voice service providers.¹⁰⁶ Many of these public comments identify the same issues regarding the reliability and resiliency of the mobile wireless networks outside of major urban population centers.¹⁰⁷ For example, many comments highlight the importance of a resilient network in the event of an emergency. A public comment made by Sheriff Matthew Kendall of Mendocino County brings attention to the critical nature of communications networks along the North Coast of California and their impact on the public warning systems which emergency services rely on during emergencies to “get the word out.”¹⁰⁸

¹⁰³ D.21-02-029, *Decision Adopting Wireline Provider Resiliency Strategies* (D.21-02-029) at 31.

¹⁰⁴ D.20-07-011 at 13.

¹⁰⁵ Initial Proposal of Cal Advocates at 10-11.

¹⁰⁶ D.24-06-024, *Decision Dismissing with Prejudice the Application of AT&T California to Withdraw as a Carrier of Last Resort*, Footnote 48 at 18-20.

¹⁰⁷ D.24-06-024, Footnote 48 at 18-20.

¹⁰⁸ A.23-03-003, Public Participation Hearing, Public Comment of Speaker Kendall, Reporters’

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The Commission must take public safety into consideration and hold COLRs accountable for maintaining and upgrading their networks to ensure an adequate level of network resiliency. In the face of an unprecedented climate emergency, Californians must have access to communications networks that allow for basic societal functions and emergency communications. Any COLR that seeks to withdraw from its obligation must therefore meet the network resiliency requirements established by D.20-07-011 and D.21-02-029¹⁰⁹ to ensure that they meet conditions two and three of the COLR withdrawal conditions.

D. The Commission should reform California High-Cost Fund B.

The Commission should modernize the California High-Cost Fund B (CHCF-B) to support the expansion and accessibility of broadband service in high-cost areas. Multiple parties addressed issues the CHCF-B faces and recommended that the Commission consider reforming the fund to incentivize service providers to seek COLR status in high-cost areas.¹¹⁰ Cal Advocates maintains its position in its Initial Proposal that the CHCF-B should be modernized to include broadband basic service at 100/20 Mbps and the subsidy amount should be revised accordingly. Doing so would support existing COLRs in high-cost areas with increased network maintenance costs, as well as attract alternative providers to volunteer for COLR status in these areas.¹¹¹

1. The Commission should declare the previous formula for setting the high-cost threshold as outmoded.

The Commission should develop a new formula based on the following: 1) more recent data from the 2020 census, 2) broadband deployment cost modeling, and 3) actual cost data from the Commission’s federal and state-funded deployment programs. The Commission should

Transcript, Ukiah, California, February 22, 2024 at 234-238 (“One of the main things that we look at, and talk about every year at the end of fire season and before winter really hits us hard, we sit down and go over everything that we can do better; and the one thing that always comes up every single time is our connectivity, our messaging, how we will get word out. . . When you get out to these out – out of the way corners, we don’t have the ability to have cell service that is reliable.”).

¹⁰⁹ D.20-07-011 at 143-146; D.21-02-029 at 102-104.

¹¹⁰ Reply Comments of Cal Advocates at 27-28; *Comments of the Utility Reform Network, the Communications Workers of America, District 9, and the Center for Accessible Technology on Initial Party Proposals*, October 30, 2024 (Reply Comments of Joint Commenters) at 33-34; Opening Comments of AT&T at 32-33; Opening Comments of TDS Companies at 9.

¹¹¹ Initial Proposal of Cal Advocates at 57.

monitor the activities of, and consult with, other state commissions which are similarly updating their high-cost operating subsidies. The available studies, professional assessments and reports by retained experts, and applicable rulemakings of other states should inform the Commission's work in this subject area.

Prior to the adoption of changes to the CHCF-B cost support methodologies recommended in D.14-06-008, *Decision Regarding Cost Proxy Update Provisions and Related Matters*, the cost support that determined the subsidy amount a COLR could receive from CHCF-B was based on 1994 cost data and 1990 census demographics.¹¹² In D.14-06-008, the Commission adopted the methodologies required to implement CBG mapping data and cost data from the 2010 census.¹¹³ Despite that needed revision to the high-cost threshold, the current formula is still outmoded for today's telecommunications landscape.

Geographically, California features challenging low-density population areas as well as vegetative and topographical features like forests and mountains which drive up the cost of both network deployment and operations. Since the adoption of revised cost proxy methodologies in D.96-10-066 and D.14-06-008, documented census population and demographic shifts and the evolution of communications technologies have created cost structures which require new data and cost modeling techniques. These new cost structures define the variables in the new cost modeling that must be developed to correctly reflect California's current high-cost telecommunications profile.

The Commission must adopt new methodologies and use current available data to modernize the CHCF-B to 1) support the expansion and accessibility of broadband service in high-cost areas, and 2) attract service providers to deploy and operate affordable broadband networks in these areas. Cal Advocates recommends that the Commission do so using the wealth of current data and modeling techniques that were simply not available as CHCF-B was first developed and then revised.

¹¹² D.14-06-008, *Decision Regarding Cost Proxy Update Provisions and Related Matters*, June 12, 2014 at 3.

¹¹³ D.14-06-008, Ordering Paragraph 1 at 21.

2. The Commission should use the significant data produced by its broadband infrastructure funding programs as data inputs for the new CHCF-B cost modeling.

In order to update the outmoded CHCF-B subsidy program, the Commission should avail itself of the broadband deployment data and cost modeling developed by the Communications Division during the implementation of Governor Newsom’s Broadband of All programs.^{114 115}

The wealth of current deployment cost information will inform the subsidy cost model variables used to produce a reformed CHCF-B. These variables include those for the number of new locations served, the density of locations served with their estimated subscribers, and the cost of invested capital in new networks. Importantly, the estimated operating costs of these new networks will be based on the technology types deployed, including those for fiber to the premises, hybrid fiber-coax, and fixed wireless access. The robust level of new data produced by the Commission’s broadband deployment programs combined with the current subsidy cost modeling techniques provide the Commission with a singular opportunity to reform CHCF-B.

III. CONCLUSION

For the reasons stated above, Cal Advocates recommends that the Commission adopt the recommendations contained in its Initial Proposal, reply comments, and this Revised Proposal.

Respectfully submitted,

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¹¹⁴ See California Broadband for All website. Available at: <https://broadbandforall.cdt.ca.gov/>.

¹¹⁵ For analytical purposes, cost modeling for deployment costs should not be confused with cost modeling for operating costs necessary to establish subsidy levels for those newly deployed networks in high-cost areas.