

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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

R.24-06-012  
(Filed June 20, 2024)

**PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T  
CALIFORNIA'S (U 1001 C) REVISIONS TO INITIAL PROPOSALS**

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

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

Commenters agree that California’s telecommunications landscape has changed drastically since the Commission issued Carrier of Last Resort (“COLR”) obligations nearly 30 years ago. Originally established to ensure basic telephone service during a time of limited options and minimal competition, the COLR framework no longer aligns with today’s telecommunications environment, which is defined by expansive broadband deployment, extensive consumer choice for voice service, and significant advances in technology. Nearly all commenters agree that COLR reform is needed to reflect and support the modern communications marketplace, given that most Californians now rely on voice carried over fixed and mobile broadband<sup>2</sup> services rather than POTS.

The comments and reply comments in this proceeding demonstrate that extensive broadband deployment and robust and affordable alternatives from multiple facilities-based broadband providers are available to, and purchased by, the vast majority of Californians. Indeed, nearly all serviceable locations in AT&T California’s territory now have access to

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

<sup>2</sup> As in its opening comments and reply comments, AT&T California uses “broadband” to refer to both fixed broadband and mobile broadband, absent an express reference to one or the other. Consistent with the Commission’s usage in its broadband mapping program, “fixed broadband” includes both wired and fixed wireless technologies. *See CPUC Annual Collected Broadband Data*, Cal. Pub. Utils. Comm’n, <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program/cpuc-annual-collected-broadband-data> (last visited Dec. 5, 2024).

broadband, and most areas offer multiple options. The availability of broadband services means consumers have access to a variety of voice services, and under five percent of the households in AT&T California's service territory still purchase basic service. Therefore, the elimination of legacy COLR obligations in areas well-served by reliable and affordable broadband generally will not leave consumers without a communications safety net. Importantly, as explained by several parties, relinquishment of a COLR designation does not equate to market exit or service discontinuance.

The substantial evidence presented in this proceeding shows that California's COLR framework must evolve. Revisions to the COLR rules will increase the capital available for broadband deployment, enhance competition, and reduce energy consumption. The sooner these benefits can be realized, the better for the public. The Commission, therefore, should deny proposals that would delay or complicate COLR reform. Continuation of COLR is not an end in itself. In this context, certain parties wrongly reject the role of broadband alternatives and government-funded programs in fulfilling state goals of universal service. Where ubiquitous competitive service has been achieved, a COLR requirement is unnecessary. Service to those whom providers would not serve without government intervention is a public responsibility. Government-funded programs, therefore, should be the backstop, not the COLR.

In this submission, AT&T California respectfully offers its revised proposals to address COLR reform in two phases. In the first phase of this proceeding, the Commission should promptly end the COLR obligations and permit removal of the basic service tariff in areas that are well-served with broadband today and areas without people (as defined more precisely below). It also should establish a straightforward and streamlined process for removing COLR obligations in areas that become well-served with broadband in the future. In the second phase,

this proceeding should focus on the more complex issues posed by populated areas that are not well-served with broadband.

In each phase of the proceeding, the Commission should arrange constructive, time-bound workshops that include technical discussions. In the first phase, workshops should help refine and build consensus on various pieces of the proposals, such as defining “well-served” areas and the relevant geographic area, discussing alternative sources for data about broadband coverage, and identifying local communities that may continue to need safety-net voice services because of their distinctive factors. In the second phase, workshops should focus on incentives to attract broadband deployment, guided by the principle that ensuring service for all is a public good and a public responsibility. The workshops for each phase should address customer notices. Each phase should end with post-workshop comments followed by a Commission decision.<sup>3</sup>

AT&T California has organized the rest of this filing as follows: In Section II, AT&T California discusses the overwhelming evidence that the COLR obligations should be reformed. In Section III, AT&T California responds to certain proposals that ignore this evidence or that seek to delay or complicate COLR reform throughout the state. Finally, in Section IV, AT&T California describes its revised proposals. A summary of these proposals is included as Attachment A. A proposed schedule for the proceeding is included as Attachment B.

## **II. THERE IS OVERWHELMING EVIDENCE THAT THE COLR OBLIGATIONS SHOULD BE REFORMED.**

The comments and reply comments demonstrate that much of California enjoys coverage from competing broadband networks. Parties agree that providers, funded by private capital and

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<sup>3</sup> During this rulemaking, should the state legislature address relevant policy changes impacting COLR reform, AT&T California will continue to work with parties and the Commission towards constructive solutions in both fora.

once-in-a-generation public programs to extend broadband to hard-to-reach places, are constantly expanding this coverage. Available broadband service offers consumers access to a variety of voice services; therefore, eliminating legacy COLR obligations in areas well-served by broadband generally will not leave consumers without a safety net. Offered these alternatives, including mobile wireless and voice over broadband, consumers have overwhelmingly rejected POTS over the almost 30 years since adoption of the COLR rules. The record thus provides a strong basis for the Commission and parties to collaborate on reforming the COLR obligations to reflect 21st-century needs across California’s diverse regions.

**A. Multiple Facilities-Based Broadband Providers Offer Service to the Vast Majority of Californians.**

The data speak powerfully: almost every Californian has reliable high-speed broadband services available. According to the latest FCC Broadband Data Collection data, nearly all serviceable locations in AT&T California’s service territory can receive broadband service.<sup>4</sup> Almost as many locations have the choice of multiple broadband providers.<sup>5</sup> The Commission’s most recent data show broadband networks are almost as widespread as in the FCC data.<sup>6</sup> The

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<sup>4</sup> Pac. Bell Tel. Co. d/b/a AT&T Cal.’s (U 1001 C) Opening Comments 23–24 (filed Sept. 30, 2024) (“AT&T California Opening Comments”); Pac. Bell Tel. Co. d/b/a AT&T Cal.’s (U 1001 C) Reply Comments 8–9 (filed Oct. 30, 2024) (“AT&T California Reply Comments”); *see also* Declaration of Mark A. Israel on Behalf of AT&T ¶ 30 & tbl. 1 (Sept. 30, 2024) (appended as Attachment A to AT&T California Opening Comments) (“Israel Decl.”); Reply Declaration of Mark A. Israel on Behalf of AT&T ¶ 11 (Oct. 30, 2024) (appended as Attachment A to AT&T California Reply Comments) (“Israel Reply Decl.”). Dr. Israel’s analyses conservatively understate the availability of broadband service. AT&T California Opening Comments at 23–26; Israel Decl. ¶¶ 24–33 & tbls. 1–2.

<sup>5</sup> In AT&T California’s service territory, more than 99 percent of serviceable locations have three or more facilities-based broadband providers. AT&T California Opening Comments at 23 (citing Israel Decl. ¶ 31 & tbl. 2); *see* Israel Reply Decl. ¶ 11.

<sup>6</sup> According to the Commission’s most recent data, more than 99 percent of the population in AT&T California’s service territory has access to at least three facilities-based broadband providers. AT&T California Opening Comments at 23 (citing Israel Decl. ¶ 30 & tbl. 1); AT&T California Reply Comments at 9; Israel Reply Decl. ¶ 11.

same is true in other parts of the state.<sup>7</sup> Cal Advocates, for example, reports that more than 97.6 percent of the state’s population has the choice of more than one non-legacy wireline, fixed wireless, and mobile wireless provider of broadband at speeds of at least 25/3 Megabits per second (“Mbps”).<sup>8</sup>

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<sup>7</sup> In Frontier’s urban and suburban territory, “there is expansive, reliable coverage from each of the major wireless carriers—AT&T, Verizon, and T-Mobile—as well as extensive competition from cable providers, such as Comcast and Spectrum.” Opening Comments of Frontier Cal. Inc. (U 1002 C), Citizens Telecomms. Co. of Cal. Inc. DBA Frontier Commc’ns of Cal. (U 1024 C), Frontier Commc’ns of the Sw. Inc. (U 1026 C) (“Frontier”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 1–2 (filed Sept. 30, 2024) (“Frontier Opening Comments”). Similarly, “Consolidated notes that there are at least three providers which offer service in 100 percent of Consolidated’s service area, four providers which offer service in 94 percent of Consolidated’s service area, and wireline cable company networks cover approximately 99 percent of customer locations.” Reply Comments of Consolidated Commc’ns of Cal. Co. (U 1015 C) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 6 (filed Oct. 30, 2024) (“Consolidated Reply Comments”); *see also* Initial Proposal of The Pub. Advocs. Off. on the Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 27–28, 37 tbl. 3 (filed Sept. 30, 2024) (“Cal Advocates Opening Comments”) (reporting that multiple facilities-based providers offer broadband at speeds of at least 25/3 Megabits per second (“Mbps”) to the great majority of Californians); Comments of the Cal. Broadband & Video Ass’n on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 6 (filed Sept. 30, 2024) (“CalBroadband Opening Comments”) (reporting that 98.9 percent of Californians are covered by four or more voice providers, 99.6 percent are covered by three or more voice providers, and almost 100 percent of the population has access to at least two voice providers).

<sup>8</sup> Reply Comments of The Pub. Advocs. Off. on the Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 12 (filed Oct. 30, 2024) (“Cal Advocates Reply Comments”). Cal Advocates wrongly suggests that AT&T California presents even higher numbers because the Commission’s broadband maps include service as low as 200 kbps. *See id.* at 9. Providers generally offer speeds well in excess of 200 kbps. As noted above, Cal Advocates’ own analysis shows that the vast majority of Californians can receive service with speeds well above 200 kbps. Their analysis does not even count the significant 5G buildouts and fixed broadband deployment over the last three years. *See* AT&T California Reply Comments at 9 n.21. Moreover, since December 2021, which is the time period reflected in the Commission’s broadband maps, mobile wireless carriers have discontinued 3G service, and 4G and 5G technology can deliver speeds measured in the tens or hundreds of Mbps. *See United States Median Country Speeds Updated October 2024*, Speedtest Global Index, Ookla, <https://www.speedtest.net/global-index/usa> (last visited Dec. 5, 2024) (noting that, in the United States as of October 2024, the median mobile download speed is 116.75 Mbps and the median mobile upload speed is 8.82 Mbps). Even DSL typically is far faster than 200 kbps. *See Measuring Fixed Broadband - Thirteenth Report*, FCC (Aug. 9, 2024), [https://www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-thirteenth-report#SKF\\_B\\_median](https://www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-thirteenth-report#SKF_B_median) (noting that, “[f]or the September-October 2022 period, the weighted mean advertised speed for DSL technology was 31 Mbps”); Lisa Iscrupé & Hannah Whatley, *What Is A Good Internet Speed?*, USA Today, <https://www.usatoday.com/tech/internet/what-is-a-good-internet-speed/> (July 15, 2024, 2:36 PM) (noting that DSL’s speed range is 3–100 Mbps). In any event, 200 kbps more

The widespread availability of competing fixed and mobile broadband networks has caused the demand for POTS to decline dramatically since adoption of the COLR rules.<sup>9</sup> AT&T California lost 93 percent of its POTS lines from 2000 to 2023<sup>10</sup> even though California’s population and housing units both rose during that same period.<sup>11</sup> Indeed, even eight years ago the Commission found that “[w]ireless and cable-based [VoIP] services have rapidly displaced traditional landline phones as the primary modes of voice communication in California.”<sup>12</sup>

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than suffices to replace the voice services COLRs offer. *See, e.g., How Much Bandwidth Does Skype Need?*, Microsoft, <https://support.microsoft.com/en-us/skype/howmuch-bandwidth-does-skype-need-ad0fa9d7-c6ce-44ed-a3cd-5ea982df6e2a> (last visited Dec. 5, 2024) ((30–100 kbps for voice calls); *Zoom System Requirements: Windows, macOS, Linux*, Zoom Support, [https://support.zoom.com/hc/en/article?id=zm\\_kb&sysparm\\_article=KB0060748](https://support.zoom.com/hc/en/article?id=zm_kb&sysparm_article=KB0060748) (last visited Dec. 5, 2024) (60–80 kbps for audio VoIP and 60–100 kbps for Zoom phone); *Voice Connectivity Requirements*, Google Help, <https://support.google.com/a/answer/9206518?hl=en#zippy=%2Cbandwidthrecommendation-per-participant> (last visited Dec. 5, 2024) (32 kbps minimum requirement for Google Voice).

<sup>9</sup> *See* AT&T California Opening Comments at 14–23; AT&T California Reply Comments 7–13; Reply Comments of Comcast Phone of Cal., LLC (U-5698-C) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 2 (filed Oct. 30, 2024) (“Comcast Reply Comments”) (stating that “most consumers today have shifted their preferences from traditional landline POTS service to wireless and VoIP alternative”); Reply Comments of Happy Valley Tel. Co. (U 1010 C), Hornitos Tel. Co. (U 1011 C), & Winterhaven Tel. Co. (U 1021 C) (the “TDS Companies”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 4 (filed Oct. 30, 2024) (“TDS Companies Reply Comments”) (noting that “many consumers prefer” “alternative voice options, including VoIP and wireless services”); Response of USTelecom – The Broadband Ass’n on the Ord. Instituting Rulemaking Proceeding To Consider Changes to Carrier of Last Resort Rules 3 (filed Sept. 30, 2024) (“USTelecom Opening Comments”) (observing that “the majority of consumers have already voluntarily transitioned [from POTS] to alternative services”); Reply Comments of USTelecom – The Broadband Ass’n on the Ord. Instituting Rulemaking Proceeding To Consider Changes to Carrier of Last Resort Rules 2 (filed Oct. 30, 2024) (“USTelecom Reply Comments”) (concluding that “traditional telephone service is now a very small part of the communications marketplace”). According to federal estimates, as of 2022, only 2.2% of California adults were “landline-only” (*i.e.*, POTS or broadband VoIP), and only 2.2% were “landline-mostly”; the remainder relied equally (5.9%), mostly (15.4%), or exclusively (73%) on their wireless phones. *National Health Interview Survey Early Release Program*, Nat’l Ctr. for Health Stat. 1 (2024), [https://www.cdc.gov/nchs/data/nhis/earlyrelease/Wireless\\_state\\_202406.pdf](https://www.cdc.gov/nchs/data/nhis/earlyrelease/Wireless_state_202406.pdf).

<sup>10</sup> Israel Decl. ¶ 20.

<sup>11</sup> AT&T California Opening Comments at 15 nn.42–43 (citing data and sources).

<sup>12</sup> *Ord. Instituting Investigation into the State of Competition Among Telecomms. Providers in Cal., & To Consider & Resolve Questions Raised in the Ltd. Rehearing of Decision 08-09-042*, D.16-12-025, 2016 Cal. PUC LEXIS 683, at \*294 (Dec. 1, 2016) (Finding of Fact 1–3).

AT&T California’s POTS penetration was down to 4.8 percent in December 2023,<sup>13</sup> and the decline in POTS subscribership shows no sign of slowing.<sup>14</sup>

Consumers have migrated because modern technologies provide significant advantages that legacy networks simply cannot match—a point underscored by several parties.<sup>15</sup> Voice services over fixed and mobile broadband services are technologically superior and available at comparable or lower prices<sup>16</sup>—people who can afford AT&T California’s POTS service can afford to replace it with voice over broadband. For those who require Lifeline assistance to afford POTS, more than a dozen mobile wireless providers—both facilities-based and resellers—offer Lifeline services throughout the state.<sup>17</sup> In addition, VoIP and mobile voice services are more reliable and provides greater safety than traditional POTS.<sup>18</sup> This broad decline in POTS

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<sup>13</sup> Israel Decl. ¶ 18.

<sup>14</sup> *See generally* 2022 *Commc’ns Marketplace Rep.*, 37 FCC Rcd. 15514, 15635 ¶ 170 (2022) (noting that “[t]he number of fixed retail switched-access lines declined [nationwide from December 2018 to December 2021] at a compound annual rate of 12.3” percent “while interconnected VoIP services continue[d] to increase”).

<sup>15</sup> *See, e.g.*, USTelecom Opening Comments at 3–4; USTelecom Reply Comments at 4 (“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.”); AT&T California Opening Comments 15–22; AT&T California Reply Comments at 13–14; *see also* Opening Comments & Initial Proposal of Happy Valley Tel. Co. (U 1010 C), Hornitos Tel. Co. (U 1011 C), & Winterhaven Tel. Co. (U 1021 C) (the “TDS Companies”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 2–3 (filed Sept. 30, 2024) (“TDS Companies Opening Comments”) (discussing migration to modern technologies due to the “increasingly competitive intermodal voice market”); TDS Companies Reply Comments at 2–3; CalBroadband Opening Comments at 2, 6–8 (describing multi-modal competition throughout California and explaining that modern technologies have “become the first choice for voice service for the vast majority of Californians as wireline subscriptions have decreased”); Reply Comments of the Cal. Broadband & Video Ass’n on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 2–6 (filed Oct. 30, 2024) (“CalBroadband Reply Comments”); Comcast Reply Comments at 3–7.

<sup>16</sup> AT&T California Opening Comments at 15; Israel Decl. ¶¶ 35–38 & tbls. 3–4.

<sup>17</sup> *See* AT&T California Reply Comments at 24 n.98 (providing data and citing sources).

<sup>18</sup> AT&T California Opening Comments at 18–20 (citing supportive authorities); *see also* USTelecom Opening Comments at 3 (“Copper-based lines are less reliable and take much longer to repair following



subscriberhip demonstrates the widespread availability of reliable and affordable fixed and mobile broadband alternatives. The fact that over 95 percent of the households in AT&T California’s service territory do not subscribe to POTS proves that virtually all of AT&T California’s customers have affordable alternatives at their locations that they find superior.<sup>19</sup>

Joint Commenters correctly observe that the “smallest and least populated areas still do not have ubiquitous alternative providers of basic telephone service.”<sup>20</sup> The Commission and other policymakers, however, are closing those gaps by directing public funds to high-speed broadband deployments through programs such as the California Advanced Services Fund,<sup>21</sup> the Federal Funding Account,<sup>22</sup> the Rural Digital Opportunity Fund,<sup>23</sup> American Rescue Plan

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weather events.”). Because of its inherent efficiencies, VoIP also offers higher service quality. AT&T California Opening Comments at 18.

<sup>19</sup> Israel Decl. ¶ 18.

<sup>20</sup> Comments of The Util. Reform Network, The Comm’ns Workers of Am., Dist. 9, & The Ctr. for Accessible Tech. on Initial Party Proposals 3 (filed Oct. 30, 2024) (“Joint Commenters Reply Comments”).

<sup>21</sup> See, e.g., 2017 Cal. Stat. ch. 851 § 3(b)(1) (A.B. 1665) (stating that the goal of the California Advanced Services Fund program “is, no later than December 31, 2022, to approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each consortia region”).

<sup>22</sup> See *Last Mile Federal Funding Account*, Cal. Pub. Utils. Comm’n, <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-implementation-for-california/last-mile-federal-funding-account> (last visited Dec. 5, 2024) (explaining that the Federal Funding Account is “a \$2 billion grant program for last-mile broadband infrastructure projects to connect unserved Californians”).

<sup>23</sup> See *Rural Digit. Opportunity Fund*, Report and Order, 35 FCC Rcd. 686, 687 ¶ 2 (2020) (“The Rural Digital Opportunity Fund represents the [FCC’s] single biggest step to close the digital divide by providing up to \$20.4 billion to connect millions more rural homes and small businesses to high-speed broadband networks.”).

funds,<sup>24</sup> the BEAD Program,<sup>25</sup> and the 5G Fund for Rural America.<sup>26</sup> These deployment efforts will continue to unfold with increased momentum while this proceeding is underway. As a result, of the few areas that are not well-served with broadband today, a substantial portion will be well-served in the near future.

**B. Widespread Broadband Availability in Populated Areas and the Absence of People Elsewhere Warrant Prompt Removal of COLR Obligations in Large Parts of the State.**

The Commission designed the COLR obligations to ensure that consumers would have access to voice service after the monopoly era ended but widespread competition among communications carriers had not yet been realized. At that time, the Commission anticipated that its COLR rules would require changes as competition emerged. Now, multiple carriers compete to provide high-speed broadband across virtually all of the state,<sup>27</sup> and a COLR is no longer

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<sup>24</sup> *State Fiscal Recovery Fund*, State of Cal. Dep't of Fin., <https://dof.ca.gov/budget/state-fiscal-recovery-fund/> (Oct. 30, 2024) (noting that California has received "\$27 billion in state fiscal recovery funds" that can be used for, among other items, broadband infrastructure); *Local Fiscal Recovery Fund Allocations*, State of Cal. Dep't of Fin., <https://dof.ca.gov/budget/local-fiscal-recovery-fund-allocations/> (June 23, 2023) (explaining that the local fiscal recovery fund can be used to invest in broadband infrastructure); *Capital Projects Fund*, State of Cal. Dep't of Fin., <https://dof.ca.gov/budget/capital-projects-fund/> (July 25, 2024) (noting that California received \$540.2 million from the Capital Projects Fund that would be used on the CPUC's Last Mile Broadband Expansion program).

<sup>25</sup> *See Broadband Equity, Access, and Deployment Program*, BroadbandUSA, Nat'l Telecomms. & Info. Admin., <https://broadbandusa.ntia.doc.gov/broadband-equity-access-and-deployment-bead-program> (last visited Dec. 5, 2024) (providing \$42.45 billion to expand high-speed internet access).

<sup>26</sup> *Establishing a 5G Fund for Rural Am.*, GN Docket No. 20-32, Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 2024 FCC LEXIS 2416 (rel. Aug. 29, 2024).

<sup>27</sup> *See Rulemaking on Comm'n's Own Motion into Universal Serv. & To Comply with the Mandates of Assembly Bill 3643*, D.96-10-066, 1996 Cal. PUC LEXIS 1046, at \*369 (Finding of Fact 16) (Oct. 25, 1996) ("1996 CPUC Decision") (stressing that, as market conditions "move[] from a monopoly provider to multiple providers, the universal service program needs to be readjusted to meet the challenges of increasing competition").

necessary in those areas.<sup>28</sup> “There is no economic or consumer protection rationale for the Commission to compel any provider to offer service in those competitive areas.”<sup>29</sup>

In attempting to resist this conclusion, Joint Commenters refuse to acknowledge the implications of coverage from competing broadband networks. Instead, they point to other areas “where competition has been insufficient to guarantee everyone access to service.”<sup>30</sup> For those other areas, Joint Commenters are correct that more progress must be made. But this argument offers no justification for retaining the COLR obligations in the areas that competing broadband networks *do* cover.<sup>31</sup> Joint Commenters attempt to supply that justification, contending that COLRs must keep their designations across their entire service territories to prevent “cream skimming.”<sup>32</sup> Where there is coverage from competing broadband networks, however, it should not matter that a COLR decides to relinquish its designation because customers will be able to

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<sup>28</sup> AT&T California Opening Comments at 27; *see also* USTelecom Opening Comments at 5 (explaining that once broadband networks are deployed, consumers can use them for voice services, negating the need for POTS service). At times, Joint Commenters question broadband’s adequacy to ensure ubiquitous access to voice services. *See, e.g.*, Joint Commenters Reply Comments at 19–20, 33–34. This attachment to the legacy copper network cannot be reconciled with their own endorsement of the FCC’s adequate replacement test for transitioning from TDM to IP services, *see* Initial Proposal of The Util. Reform Network, The Comm’n’s Workers of Am., Dist. 9, & The Ctr. for Accessible Tech. Regarding the Ord. Instituting Rulemaking To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 9 (filed Sept. 30, 2024) (“Joint Commenters Opening Comments”), or with other consumer advocates’ recognition of broadband’s sufficiency, *see* Cal Advocates Reply Comments at 6, 8, 13; Reply of Small Bus. Util. Advocs. to Proposals Responding to the Questions in the Rulemaking Proceeding To Consider Changes to The Comm’n’s Carrier of Last Resort Rules 2–3 (filed Oct. 30, 2024) (“SBUA Reply Comments”); Reply of Empowering Quality Access for Isolated Localities (“EQUAL”) to Other Party Proposal for Changes to Carrier of Last Resort Rules in Ord. Instituting Rulemaking Proceeding 3 (filed Oct. 30, 2024) (“EQUAL Reply Comments”). Joint Commenters also ignore FCC regulations requiring mobile wireless and interconnected VoIP providers to enable access to 911 and accessibility services. *See* 47 C.F.R. §§ 6.1–6.16, 7.1–7.16, 9.10, 9.11, 64.601(b), 64.603(a), 67.1–67.3.

<sup>29</sup> Comcast Reply Comments at 8.

<sup>30</sup> Joint Commenters Reply Comments at 14.

<sup>31</sup> As discussed below in Section III.A, Joint Commenters also attack the analyses showing the extent of broadband availability and the data on which the analyses are based.

<sup>32</sup> Joint Commenters Reply Comments at 19.

obtain broadband (and, thus, voice) service over those alternative networks. And requiring a COLR in such areas would counterproductively harm consumers both in those areas and elsewhere.<sup>33</sup>

There also is no reason to continue the COLR requirement in areas where there are no people, which AT&T California proposes to define as census blocks that satisfy three criteria: (a) the U.S. Census Bureau reports zero population, (b) the applicable COLR does not serve any residential or business customer address with basic telephone service in that census block, *and* (c) the National Broadband Map does not report any serviceable locations.<sup>34</sup> In those areas, there is no demand for communications services and, thus, no need for a COLR.

Cal Advocates agree that the Commission should consider removing COLR obligations in such areas but raise two additional criteria.<sup>35</sup> First, Cal Advocates suggest the Commission consider “zoning and parcel classification” to capture “future development plans.”<sup>36</sup> However, greenfield developers typically solicit bids to deploy broadband service, and providers compete to be selected.<sup>37</sup> In the exceptional cases where no provider chooses to deploy broadband service, it is a public responsibility to ensure service availability. Government programs should offer the support necessary to attract the provider capable of supplying service most efficiently instead of

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<sup>33</sup> See Israel Decl. ¶¶ 53, 55, 58; Israel Reply Decl. ¶ 26.

<sup>34</sup> AT&T California Opening Comments at 30; AT&T California Reply Comments at 26; *see also* USTelecom Reply Comments at 2 (“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.”); Cal Advocates Reply Comments at 15.

<sup>35</sup> See Cal Advocates Reply Comments at 15 (stating that “Cal Advocates does not oppose an evaluation of AT&T’s proposal to relieve COLR obligations 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”).

<sup>36</sup> *Id.*

<sup>37</sup> See AT&T California Opening Comments at 31.

imposing the responsibility on an unwilling COLR,<sup>38</sup> as Joint Commenters would do,<sup>39</sup> just because it held the local monopoly franchise 30 years ago for an unpopulated area. Second, Cal Advocates propose to exclude emergency response sites from this category of COLR removal.<sup>40</sup> AT&T California’s proposed definition of areas without people would exclude an area with an emergency response site that subscribes to COLR basic telephone service; one of the definition’s prongs is that the area must have no COLR basic telephone service customers.<sup>41</sup> Cal Advocates’ additional criteria are therefore unnecessary.

**C. The Commission Should Develop Modern Solutions To Create Incentives To Deploy Broadband in Other Populated Areas.**

Once the Commission has reformed the COLR obligations for the vast majority of the population who live in well-served areas and for unpopulated areas, this proceeding should focus on the more complex issues posed by populated areas that are not well-served with broadband.<sup>42</sup>

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<sup>38</sup> See AT&T California Opening Comments at 30-31; AT&T California Reply Comments at 26; Israel Reply Decl. ¶ 19 (explaining the economics of and appropriate policy response to positive externalities); see also USTelecom Opening Comments at 4 (explaining that the deployment of next-generation technologies, especially in “the most rural parts of the state,” “cannot efficiently occur without further subsidies and programs similar to BEAD”); TDS Companies Opening Comments at 8 (noting that, if the CHCF-B program “were reformed significantly to provide additional support to COLRs in competitive areas,” alternative COLRs may be more willing to volunteer).

<sup>39</sup> See Joint Commenters Reply Comments at 22 (“However, it is not enough to ‘assume’ that competition or government funded programs will build in those rural and difficult to reach areas as population increases. The COLR rules ensure that residents of unserved areas can request new service that meets their needs.”).

<sup>40</sup> See Cal Advocates Reply Comments at 15.

<sup>41</sup> See AT&T California Opening Comments at 30 (proposing to remove COLR obligations in census blocks for which, among other things, the applicable COLR does not serve any customer address with basic telephone service in that census block).

<sup>42</sup> See AT&T California Reply Comments at 28–29; see also CalBroadband Reply Comments at 1–2 (“To the extent the Commission finds that COLR obligations remain necessary to ensure ubiquitous access to voice service in certain limited areas that lack competition, the Commission should maintain existing COLRs’ obligations in those areas and reassess the level of competition in the future.”); Comcast Reply Comments at 7–8; USTelecom Opening Comments at 5–6; Proposal of Empowering Quality Util. Access for Isolated Localities (“EQUAL”) for Changes to Carrier of Last Resort Rules in Ord. Instituting Rulemaking Proceeding 5, 10, 12 (filed Sept. 30, 2024) (“EQUAL Opening Comments”).

As Frontier explains, “[t]he Commission should begin by identifying these ‘easy cases’ and remove COLR obligations through this proceeding. The Commission should then set a process in place to address requests in rural areas and other markets where competition may be less pervasive, but still significant enough to warrant removing COLR responsibilities.”<sup>43</sup> Only a very small fraction of the population lives in these last areas,<sup>44</sup> but the unique characteristics of these areas may preclude a single solution that fits all of them.<sup>45</sup>

#### **D. Only Service Discontinuances Require Notification of Customers.**

Widespread agreement exists on the importance of customer notices and a well-thought-out transition process when a COLR discontinues service.<sup>46</sup> The lodestar here should be ensuring that customers are provided timely, comprehensive, and actionable information, so they are prepared for, and capable of, making informed decisions about a change in service. Providers, as much as the Commission, want customers to have clear expectations, to understand their options, and to have plenty of time to make decisions affecting their service.

Notices consistent with three principles will enable customers to make informed decisions about a change in service:

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<sup>43</sup> Frontier Opening Comments at 6–7.

<sup>44</sup> See Israel Decl. ¶¶ 6–7, 9.

<sup>45</sup> AT&T California Opening Comments at 31–32 (footnote omitted) (“Some areas qualify as high-cost—meaning that they qualify under historic rules related to the cost to deploy and maintain networks—and, thus, are eligible for [California High Cost Fund-B (“CHCF-B Fund”)] support. Tribal lands, at least in some cases, present different challenges. And the state’s varied geography and topography—mountain areas, desert regions, coastal communities, and offshore islands—may demand varied solutions.”).

<sup>46</sup> See, e.g., Cal Advocates Opening Comments at 65–67; Opening Comments of Consolidated Commc’ns of Cal. Co. (U 1015 C) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 9 (filed Sept. 30, 2024) (“Consolidated Opening Comments”); Frontier Opening Comments at 6; Joint Commenters Opening Comments at 46–47, 50–53; Cal Advocates Reply Comments at 20–21; Reply Comments of Frontier Cal. Inc. (U 1002 C), Citizens Telecomms. Co. of Cal. Inc. DBA Frontier Commc’ns of Cal. (U 1024 C), Frontier Commc’ns of the Sw. Inc. (U 1026 C) (“Frontier”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 5 (filed Oct. 30, 2024) (“Frontier Reply Comments”).

1. Customer notices should be clear, relevant, and timely. Part of clarity is providing notices in accordance with the In-Language Support Rules set forth in Appendix C of D.08-10-016.<sup>47</sup>
2. Customer notices should focus on relevant information about a change in a customer's service, and not convey information that does not apply to the customer at all. Every required statement should be directly linked to a change in service to avoid confusing customers.
3. The information relevant to customers will vary depending on the timing, location and nature of the service change. The Commission should provide carriers the flexibility to craft customer notices suited to particular facts to avoid unnecessary confusion.<sup>48</sup>

Proposals from Cal Advocates, Joint Commenters, EQUAL, SBUA, and EMF Safety Network for notice when a COLR seeks to remove its COLR designation<sup>49</sup> would, however, lead to customer confusion that all should seek to avoid. Customers receiving notice of COLR relinquishment would likely interpret the notice to mean they are about to lose service although relinquishing a COLR designation does not equate to market exit or service discontinuance.<sup>50</sup> The right time for such notice is when the former COLR is actually ready to discontinue a

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<sup>47</sup> *Ord. Instituting Rulemaking To Address the Needs of Telecomms. Customers Who Have Ltd. Eng. Proficiency*, D.08-10-016, 2008 Cal. PUC LEXIS 339, at \*331 app. C (Oct. 2, 2008).

<sup>48</sup> AT&T California Reply Comments at 29–30.

<sup>49</sup> See Cal Advocates Opening Comments at 65–68; Cal Advocates Reply Comments at 24–25, 29–30; Joint Commenters Opening Comments at 46–53; Joint Commenters Reply Comments at 38–39; EQUAL Opening Comments at 22–23; Proposal of Small Bus. Util. Advocs. in Response to the Questions in the Rulemaking Proceeding To Consider Changes to the Comm'n's Carrier of Last Resort Rules 8 (filed Sept. 30, 2024); Comments of EMF Safety Network 4 (filed Sept. 30, 2024).

<sup>50</sup> See Frontier Reply Comments at 4 (stating that, “as a general matter, COLR ‘relief’ is not the equivalent of a market exit, nor would it necessarily signal a market exit by any provider”; “Cal Advocates incorrectly assumes that the removal of a COLR designation means that a carrier will cease operating its network in the area where the COLR designation is removed; Frontier has no plans to cease operating its networks where a COLR designation is removed.”); Consolidated Reply Comments at 7 (stating that “removal of the COLR designation is not the same as exiting the market” and explaining that Consolidated “intends to serve its existing customers, regardless of income classification, after removal of the COLR designation”); AT&T California Reply Comments at 30–31 (“Removal of COLR obligations in itself will not allow a carrier to stop providing basic telephone service. Rather, the carrier also must satisfy the discontinuation requirements of Section 214 *before* it may withdraw basic telephone service. Conflating the end of the COLR obligations with the discontinuation of basic telephone service would confuse customers with inaccurate information.”).

service to a set of customers. Then, those customers will need to understand the former COLR’s plans and the customers’ options; and, in this context, the COLR must provide notice as required by the Commission and FCC.<sup>51</sup> A notice at any other time could be misleading and would likely foster unnecessary customer anxiety and confusion.<sup>52</sup>

### **III. WHERE COLR OBLIGATIONS NO LONGER SERVE A PURPOSE, THE COMMISSION SHOULD REMOVE THEM WITHOUT UNNECESSARY DELAY OR COMPLICATIONS.**

Ending the COLR obligations where they no longer serve a purpose would promote competition and further investment in new broadband technologies, job creation, and better environmental outcomes.<sup>53</sup> The sooner these benefits can be realized, the better for the public. For this reason, AT&T California has proposed that this proceeding first address areas where the Commission can remove the COLR obligations promptly. Various parties, however, advance arguments or proposals seemingly designed to slow reform with complex hurdles that could not be overcome for years, if ever. The Commission should not accept these invitations.

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<sup>51</sup> See Telecommunications Industry Rule 8.5 of General Order 96-B; 47 U.S.C. § 214(a); 47 C.F.R. §§ 63.71–63.90; USTelecom Opening Comments at 6. As the Independent Small LECs point out, the Commission previously rejected Cal Advocates’ and other parties’ efforts to expand the customer-notice and migration rules for ILEC copper retirements. See Reply Comments of Calaveras Tel. Co. (U 1004 C), Cal-Ore Tel. Co. (U 1006 C), Ducor Tel. Co. (U 1007 C), Foresthill Tel. Co. (U 1009 C), Kerman Tel. Co. (U 1012 C), Pinnacles Tel. Co. (U 1013 C), The Ponderosa Tel. Co. (U 1014 C), Sierra Tel. Co., Inc. (U 1016 C), The Siskiyou Tel. Co. (U 1017 C), Volcano Tel. Co. (U 1019 C) (“Independent Small LECs”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 7 (filed Oct. 30, 2024); see also *Rulemaking Regarding Whether To Adopt, Amend, or Repeal Reguls. Governing the Ret. by Incumbent Loc. Exch. Carriers of Copper Loops & Related Facilities Used To Provide Telecomms. Servs.*, D.08-11-033, 2008 Cal. PUC LEXIS 443, at \*21–29, \*45–51, \*53–56, \*58–59.

<sup>52</sup> AT&T California Reply Comments at 4; see also Frontier Reply Comments at 5 (explaining that the “foundational principle underlying removal of COLR requirements in a particular market is that there are adequate alternatives for the customers in that market, making [Joint Commenters’ proposed] noticing requirements unnecessary and, even worse, confusing to customers”).

<sup>53</sup> See AT&T California Opening Comments at 13–14, 24; Israel Decl. ¶¶ 16, 49–50, 54–55; AT&T California Reply Comments at 32–36.



**A. Joint Commenters Misconstrue AT&T California’s Economic Analysis.**

Joint Commenters unfairly accuse Dr. Israel of putting a monetary value on “service for a person on the top floor of a burning building or a pregnant woman on bed rest”<sup>54</sup> because he observes that there are geographic areas in California where the COLR obligation does not make “economic sense.”<sup>55</sup> *First*, Dr. Israel never denies the value of universal service; to the contrary, he endorses it: “[u]niversal access to voice services is an important policy goal.”<sup>56</sup> *Second*, Joint Commenters entirely ignore the context of Dr. Israel’s observation:

[I]t is important to recognize that regulation comes with both benefits and costs. And policymakers should be prepared to adjust regulations as circumstances change. In particular, there are at least two types of geographic areas where the COLR obligation does not make economic sense. ... The first of these types is areas that are well-served by broadband today [because] where there is broadband availability, competition also ensures that voice services will be available. The second of these types is areas that are uninhabited, lack POTS customers, and lack serviceable locations and thus pose no concern regarding universal access.<sup>57</sup>

In other words, the costs imposed by COLR obligations serve no purpose where they do not contribute to advancing universal service—where there would be service without a regulatory requirement or where there are no people to demand service. The passage from Dr. Israel’s declaration that Joint Commenters cite says nothing about hard-to-serve populated areas. AT&T California and Dr. Israel do not suggest that consumers in those areas should be left without voice service because it is expensive to serve them. Rather, AT&T California and Dr. Israel simply recognize what numerous state and federal programs also affirm—the costs of service are a public responsibility and should not be born exclusively by a single, private, legacy provider.

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<sup>54</sup> Joint Commenters Reply Comments at 16.

<sup>55</sup> *See id.* at 15–16.

<sup>56</sup> Israel Decl. ¶ 11; Israel Reply Decl. ¶ 2.

<sup>57</sup> Israel Decl. ¶ 11; *see also* Israel Reply Decl. ¶ 2.

Over and over, the Commission has modified its regulation of telecommunications to recognize the efficiencies of a competitive market while also protecting consumers<sup>58</sup>—COLR should be no different. Nevertheless, Joint Commenters also condemn economic analyses—and agency predictions based on them—as unreliable: “Given that economic analysis, even properly

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<sup>58</sup> See *Ord. Instituting Rulemaking on the Comm’n’s Own Motion To Assess & Revise the Regul. of Telecomms. Utils.*, D.06-08-030, 2006 Cal. PUC LEXIS 367, at \*1–2 (Aug. 24, 2006) (“grant[ing] carriers broad pricing freedoms concerning almost all telecommunications services, new telecommunications products, bundles of services, promotion, and contracts” and “eliminat[ing] many of the vestiges of rate-of-return regulation”); *Ord. Instituting Rulemaking on the Comm’n’s Own Motion into Competition for Loc. Exch. Serv.*; et al., D.99-02-038, 1999 Cal. PUC LEXIS 31, at \*14 (Feb. 4, 1999) (“Because individual [competitive local carriers (CLCs)] lack significant market power, we have permitted CLCs to set their prices based upon market considerations. While we still require CLCs to file tariffs with the Commission . . . , we do not impose traditional cost-of-service regulation on the prices included in the CLCs’ tariffs.”); *Application of AT&T Commc’ns of Cal., Inc. To Be Designated a Non-Dominant Interexchange Carrier*, D.97-08-060, 1997 Cal. PUC LEXIS 591, \*40–41 (Aug. 1, 1997) (finding that AT&T no longer “wield[ed] ‘significant market power’ in any of its market segments in California” such that AT&T was “no longer . . . a dominant carrier,” and “grant[ing] AT&T complete rate flexibility”); *Rulemaking on the Comm’n’s Own Motion To Establish a Simplified Registration Process for Non-Dominant Telecomms. Firms*; et al., D.96-09-098, 1996 Cal. PUC LEXIS 972, at \*2 (Sept. 20, 1996) (“exempt[ing] nondominant interexchange carriers (NDIECs) from tariffing requirements as a group, so long as such NDIECs are not affiliates of local exchange companies (LECs) or competitive local carriers (CLCs)”); *Rulemaking on the Comm’n’s Own Motion for the Purpose of Modifying Existing Tariff Filing Rules for Telecomms. Utils., Other Than Loc. Exch. Carriers & AT&T-C, & for the Purpose of Addressing Other Issues Concerning the Regul. of These Utils.*, D.90-08-032, 1990 Cal. PUC LEXIS 787, at \*78–85 (Aug. 8, 1990) (modifying and streamlining tariff rules that apply to nondominant interexchange carriers); *Alt. Regul. Frameworks for Loc. Exch. Carriers*; et al., D.89-10-031, 1989 Cal. PUC LEXIS 576, at \*7–9 (Oct. 12, 1989) (creating an incentive-based new regulatory framework to replace the “traditional rate base rate-of-return method of setting rates for local exchange carriers” “as a result of technological innovations as well as major legal and federal regulatory developments” that changed “the telecommunications industry and the California marketplace”); *Application of Cal. Ass’n of Long Distance Tel. Cos. (CALTEL) for a Gen. Ord. of Exemption from Sections 816–830 of the Pub. Util. Code, Pursuant to Section 829, & from Sections 851–855 of the Pub. Util. Code, Pursuant to Section 853*, D.86-08-057, 1986 Cal. PUC LEXIS 786, at \*14–15 (Aug. 18, 1986) (authorizing the Executive Director “to grant applications under §§ 851–855 of the PU Code when the application is noncontroversial and the applicant is a nondominant telecommunications carrier”); *Ord. Instituting Investigation To Determine Whether Competition Should Be Allowed in the Provision of Telecomms. Transmission Servs. Within the State*; et al., D.84-01-037, 1984 Cal. PUC LEXIS 37, at \*11–12 (Jan. 5, 1984) (permitting nondominant interexchange carriers to file revisions to their filed tariffs to become effective five days after the date of filing instead of the then-prevailing 30-day period that applied for utility tariff revisions).

applied, cannot guarantee outcomes, such analysis is inappropriate as a tool to ensure that everyone in a service area will be served.”<sup>59</sup>

While Joint Commenters’ arguments are clearly wrong, they are also beside the point. Dr. Israel is marshaling the best-available data to describe the areas broadband providers *already* serve. His analysis relies on actual facts.

Joint Commenters then proceed to criticize the data even though under five percent of households in AT&T California’s service territory still subscribe to basic service. This fact establishes that the government broadband data are substantially correct. Furthermore, both the Commission and the federal government rely upon government broadband data to allocate billions of dollars of deployment support, among other important decisions.<sup>60</sup> Crucially, no party offers an alternative data source as superior.<sup>61</sup> So far as AT&T California knows, there is none.<sup>62</sup> Cal Advocates and other parties appear to agree.<sup>63</sup> As the Commission is obliged to use the best

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<sup>59</sup> Joint Commenters Reply Comments at 15; *see also id.* at 14–15 (dismissing economic analyses as simply “predictive tool[s]” that are “fallible”). Joint Commenters similarly denigrate the Commission for predicting in 1996 that competition not only would lead to multiple carriers in an area (an accurate prediction) but also would lead to multiple COLRs in an area, which turned out not to be the case. *Id.* at 14–15. Joint Commenters’ arguments would prevent the Commission from making any forward-looking decision because the future is always uncertain.

<sup>60</sup> *See* AT&T California Reply Comments at 14–15. Joint Commenters ask that the Commission reject government-generated broadband maps (including the Commission’s own) because of public participation hearing testimony that certain areas have poor or no mobile wireless service. Joint Commenters Reply Comments at 18 & n.58. The government broadband maps show that there are areas of the state without mobile wireless coverage. The PPH testimony that Joint Commenters cite could thus be entirely consistent with the maps’ accuracy. For the testimony to demonstrate the maps’ inaccuracy, Joint Commenters would have to show that the PPH speakers live in areas where the maps indicate there is mobile wireless coverage. Joint Commenters have not presented such evidence.

<sup>61</sup> *See* Joint Commenters Reply Comments at 17.

<sup>62</sup> AT&T California Reply Comments at 14–15.

<sup>63</sup> *See, e.g.,* Cal Advocates Opening Comments app. D; Cal Advocates Reply Comments app. A; CalBroadband Opening Comments at 6; Consolidated Opening Comments attach. A (Declaration of Bryan Keating); USTelecom Reply Comments at 2.

data before it,<sup>64</sup> it is incumbent on parties that oppose reliance on government broadband maps to offer better data or at least reasonable steps for addressing the maps' limitations.

**B. Onerous Requirements for COLR Relinquishment Would Undermine COLR Reform.**

Proposals to adopt burdensome prerequisites for a COLR seeking to relinquish its designation<sup>65</sup> would in effect lock the existing COLRs into an unending role—even in areas where a COLR is manifestly unnecessary for accomplishing universal service goals. For instance, Cal Advocates propose a “seven-stage COLR withdrawal process, which includes ten specific requirements for a COLR to meet prior to submitting a withdrawal application.”<sup>66</sup> Even assuming that a COLR somehow could satisfy the burdensome and time-consuming prerequisites

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<sup>64</sup> See *Application of S. Cal. Gas Co. (U 904 G) for Authorization To Increase Rates Charged for Gas Serv. Based on Test Year 1994 & To Include an Attrition Allowance for 1995 & 1996*, D.93-12-043, 1993 Cal. PUC LEXIS 728, at \*10 (Dec. 17, 1993) (“The Commission uses the best evidence it has available to reach its conclusions.”); accord *Application of Cal.-Am. Water Co. (U210W) for Authorization To Increase Its Revenues for Water Serv. in Its Monterey Dist. by \$24,718,200 or 80.30% in the Year 2009; \$6,503,900 or 11.72% in the Year 2010; & \$7,598,300 or 12.25% in the Year 2011 Under the Current Rate Design & To Increase Its Revenues for Water Serv. in the Toro Serv. Area of Its Monterey Dist. by \$354,324 or 114.97% in the Year 2009; \$25,000 or 3.77% in the Year 2010; & \$46,500 or 6.76% in the Year 2011 Under the Current Rate Design; & Related Matters*, D.09-07-021, 2009 Cal. PUC LEXIS 346, at \*172–73 (Jan. 30, 2008) (“We will rely on DRA’s non-regulated allocation calculated from the SEC filing because that filing is the best evidence before us.”); *Greyhound Lines, Inc.*, D.95-01-046, 1995 Cal. PUC LEXIS 45, at \*26 (Jan. 24, 1995) (“We reject DRA’s argument that Greyhound’s two-week traffic study is unreliable, and, therefore, that Greyhound has failed to meet its burden of proof. We recognize that independent corroboration of sample data is desirable, and that seasonal variations can undermine the accuracy of data from a limited time frame. Still, Greyhound’s is the best evidence in this record.”); *Red Top Cogeneration Project, L.P. v. Pac. Gas & Elec. Co.*, D.96-06-030, 1996 Cal. PUC LEXIS 699, at \*22 (June 6, 1996) (“Red Top challenges other elements of PG&E’s study, but presents no evidence that other assumptions are more reasonable. Therefore, the best evidence of dryer operation is from PG&E’s study based upon actual electricity sales to Red Top for dryer operations.”); see also Cal Advocates Opening Comments at 33 n.108 (noting its reliance on CPUC broadband maps because they are the “best available data source for estimating broadband coverage”).

<sup>65</sup> See, e.g., Cal Advocates Opening Comments at 11 (suggesting that COLRs must first deploy broadband service at speeds of at least 100/20 Mbps as a condition of authorization to relinquish the COLR designation in a service area); Cal Advocates Reply Comments at 25; Joint Commenters Opening Comments at 42 (suggesting that a COLR cannot relinquish its designation unless it first identifies a replacement COLR); Joint Commenters Reply Comments at 36–37.

<sup>66</sup> Cal Advocates Reply Comments at 21.

Cal Advocates propose, the COLR still would confront multiyear processes for final approval of its relinquishment, with a lengthy application review followed by a three-year “provisional” period.<sup>67</sup> At least in AT&T California’s service territory, such a drawn-out process would make no sense given that almost all households already have abandoned basic service.

AT&T California has proposed less burdensome ways to address the two primary concerns underlying Cal Advocates’ one-size-fits-all proposal. Cal Advocates’ first concern is that “many Californians still lack access to essential communications services, and therefore, a COLR is still necessary in some communities to ensure universal access.”<sup>68</sup> Yet, those are the communities where AT&T California does not seek to end its COLR obligations until they become well-served with broadband or stronger incentives have attracted a replacement COLR.<sup>69</sup> Cal Advocates’ second concern is that the technology transition and network modernization in an area not leave customers behind “with inferior service or no service at all.”<sup>70</sup> If an area is well-served with broadband, however, customers should have access to broadband (and, thus, voice) service, and providers have a strong economic incentive to expand their customer bases to spread their high fixed costs across more subscribers.<sup>71</sup> Adopting AT&T California’s proposal would

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<sup>67</sup> See AT&T California Reply Comments at 40–41; Frontier Reply Comments at 4–5 (explaining that Cal Advocates’ ten factor, three-year COLR removal proposal “is so onerous that if adopted, it would be impracticable to ever imagine a carrier successfully satisfying its terms”).

<sup>68</sup> Cal Advocates Opening Comments at 53.

<sup>69</sup> See Section II.C *supra*; Section IV.B *infra*; AT&T California Opening Comments at 33 (“Unless a voluntary replacement COLR can be attracted through incentives, AT&T California remains committed, as part of its proposals, to serving as the COLR for its customers that lack a voice option because they live in an area that is not well-served by broadband.”).

<sup>70</sup> Cal Advocates Opening Comments at 53.

<sup>71</sup> See AT&T California Opening Comments at 27; Israel Decl. ¶ 42; Doug Brake & Robert D. Atkinson, *A Policymaker’s Guide to Broadband Competition*, Info. Tech. & Innovation Found. (Sept. 3, 2019), <https://itif.org/publications/2019/09/03/policymakers-guide-broadband-competition/> (explaining circumstances in which providers can serve a large number of customers at low costs).

address Cal Advocates’ important concerns without the long and cumbersome course that Cal Advocates prescribes for COLR relinquishment.

Other parties advance complex—and confiscatory—processes for legacy network assets. Joint Commenters would have COLRs seek Commission approval of a post-relinquishment disposition of assets and rights of way, including accounting of all equipment used for basic service and of reseller and other pole occupants affected by relinquishment.<sup>72</sup> EQUAL’s proposal, supported by Joint Commenters, to require existing COLRs to assign or transfer the use of their copper facilities to a replacement COLR for a nominal amount would not address the economic inefficiencies of COLR obligations in areas that are already well-served or have no population.<sup>73</sup> In addition, as EQUAL recognizes, some of AT&T California’s physical copper

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<sup>72</sup> Joint Commenters Reply Comments at 40. Joint Commenters conflate relinquishment of a COLR designation with market exit or service discontinuance. As numerous parties have explained, relinquishment of a COLR designation does not equate to market exit or service discontinuance. *See supra* n.50.

<sup>73</sup> *See* EQUAL Opening Comments at 7; EQUAL Reply Comments at 8; Joint Commenters Reply Comments at 40–41. EQUAL claims it “represents Californians living in areas that are isolated due to geography topography and other factors, and who have no meaningful alternative to POTS.” EQUAL Opening Comments at 5. It appears that EQUAL’s constituents do not live in areas well-served by broadband. If AT&T California’s proposals are adopted, it has committed to remain a COLR in such areas until they become well-served, *see* AT&T California Opening Comments at 5, which may moot EQUAL’s concerns. EQUAL offers vague assertions about unidentified CLECs’ interest in replacing AT&T California as a COLR. *See* EQUAL Opening Comments at 6; EQUAL Reply Comments at 2. But EQUAL admits that: “In A.23-03-003, the Commission issued a notice to 207 representatives of local exchange carriers operating in California, giving them 60 days to indicate *interest in taking over COLR designation from AT&T*. Not a single carrier responded.” EQUAL Opening Comments at 5–6 (emphasis added; footnotes omitted). As demonstrated by the Commission’s notice, AT&T California assigned two points of contact for potentially interested carriers. *See Application of Pac. Bell Tel. Co. d/b/a/ AT&T Cal. (U1001C) for Targeted Relief from Its Carrier of Last Resort Obligation & Certain Associated Tariff Obligations*, A.23-03-003, Admin. L. Judge’s Ruling on Noticing Potential Carriers of Last Resort attach. A at 1, 3 (Feb. 28, 2024) (listing two AT&T representatives and their telephone and email contact information). Following the Commission’s distribution of the notice, AT&T California received three preliminary inquiries concerning limited or unspecified portions of its service territory. AT&T California had an initial discussion with each inquirer (one of which was a group of carriers) and a follow-up discussion with a member of the group. Each was interested in buying assets that AT&T California was not offering for sale.

wire facilities may be used for current or future technological deployments.<sup>74</sup> Requiring a COLR, as a condition of relinquishing its designation, to give its network to another carrier for essentially nothing and then provide financial support during the transition period would confiscate the relinquishing COLR's valuable assets while imposing substantial transition costs. AT&T California has invested in the network's ongoing maintenance and repair, including powering and maintaining the wire centers, developing IT and billing systems, providing customer care, monitoring the network, and provisioning systems. While critical for the network's continued operation, none is an easily severable element that AT&T California could simply hand over to another provider. In contrast, EQUAL's proposal would disincentivize the transfer of facilities and create no—or even negative—incentives for their maintenance or upgrade.<sup>75</sup> EQUAL also fails to take into account the rights of way, licenses, permits, and easements that are required for the copper wire network, and which may or may not be transferable. These proposals unduly burden the relinquishment process and undermine reform of the COLR rules to remove impediments to broadband deployment.<sup>76</sup>

Moreover, the implicit premises of EQUAL's proposal—that COLRs effectively do not own their networks because they “were built using ratepayer money”<sup>77</sup> or only have nominal

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<sup>74</sup> EQUAL Opening Comments at 19 (positing that “a withdrawing COLR may well intend to continue to use its existing systems to continue to operate their remaining business”).

<sup>75</sup> See Israel Reply Decl. ¶¶ 30–31. Joint Commenters take EQUAL's problematic proposal even further by suggesting that the Commission take a hard look at any proposed transfer to an unregulated affiliate to ensure that useful infrastructure is not transferred to an affiliate. See Joint Commenters Reply Comments at 42–43. This proposal is outside the scope of this proceeding. The Public Utilities Code and Commission and judicial precedent thereunder explain the Commission's responsibilities with respect to transactions.

<sup>76</sup> While AT&T California cannot speak to the circumstances of the other ILECs, it believes the points it makes in this paragraph apply at least to the other Uniform Regulatory Framework (“URF”) carriers.

<sup>77</sup> EQUAL Opening Comments at 12; see also EQUAL Reply Comments at 6. EQUAL's proposal to prohibit COLRs from owning broadband networks supported with public funds, and to require such

value today—are factually unsupported and fundamentally incorrect.<sup>78</sup> Since the New Regulatory Framework took effect for AT&T California on January 1, 1990, AT&T California has built out and maintained its network using its own capital, at its own risk.<sup>79</sup>

**C. Requiring a Broadband, VoIP, or Mobile Wireless COLR Would Be Counterproductive and Invite Legal Challenge.**

Cal Advocates and Joint Commenters would create entirely new—and counterproductive—broadband mandates while simultaneously requiring existing COLRs to maintain aging and increasingly obsolete copper wire networks.<sup>80</sup> These proposals would harm consumers by reducing incentives for carriers to deploy broadband<sup>81</sup> as well as substantially complicate and effectively delay this proceeding.

Joint Commenters and Cal Advocates argue that the COLR rules are technology neutral, such that they can be satisfied by deploying broadband rather than through a copper network.<sup>82</sup> Yet, Joint Commenters also argue that non-copper networks, which do not transmit their own

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networks to be open-access, *see* EQUAL Reply Comments at 6, should be addressed in rulemakings for the public funding programs and applied (or not) to all deployers supported by a particular program.

<sup>78</sup> *See* AT&T California Reply Comments at 34.

<sup>79</sup> *See Alt. Regul. Frameworks for Loc. Exch. Carriers*; et al., 1989 Cal. PUC LEXIS 576, at \*86–87, \*133; Israel Reply Decl. ¶ 29. Comcast’s suggestion that, in areas that do not have voice competition, “the Commission should continue to impose the COLR obligation on the ILEC” because it “is the only provider to have ever benefited from a monopoly in the service area,” Comcast Reply Comments at 9, similarly assumes incorrectly that the long-ago monopoly continues to provide benefits to the URF ILECs today.

<sup>80</sup> *See, e.g.*, Cal Advocates Opening Comments at 9 (recommending inclusion of broadband service as part of basic service components); Cal Advocates Reply Comments at 3–5; Joint Commenters Opening Comments at 35, 38 (substantially rewriting the Commission’s basic service requirements by, among others, recommending inclusion of broadband service as an element of basic service); Joint Commenters Reply Comments at 29, 31–33.

<sup>81</sup> *See* Israel Reply Decl. ¶¶ 24–26.

<sup>82</sup> Joint Commenters Opening Comments at 8; Joint Commenters Reply Comments at 13; Cal Advocates Opening Comments at 57 n.140; Cal Advocates Reply Comments at 13.



power, are insufficient to meet the COLR obligations.<sup>83</sup> That no COLR satisfies its basic service obligation with mobile wireless or VoIP<sup>84</sup> demonstrates that, as a practical matter, the COLR obligations are not technology neutral.

In addition, expanding COLR obligations to VoIP, mobile wireless, or fixed broadband providers would invite legal battles over preemption, as evidenced by the parties' comments,<sup>85</sup> which would delay this proceeding significantly. However, the Commission need not address this issue to remove COLR obligations in areas where, today, they clearly are no longer necessary to ensure access to service. For all these reasons, the Commission should exclude these proposals from this rulemaking's scope.<sup>86</sup>

#### **IV. AT&T CALIFORNIA'S REVISED PROPOSALS TO REFORM COLR OBLIGATIONS<sup>87</sup>**

As described above, various parties, including CalBroadband, Frontier, and Comcast, discuss extensive deployment of broadband networks from competing providers and explain that

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<sup>83</sup> Joint Commenters Reply Comments at 19–20.

<sup>84</sup> To the best of AT&T California's knowledge and with limited exceptions where copper was destroyed or moved and could not be economically replaced.

<sup>85</sup> *See, e.g.*, Frontier Opening Comments at 4; CalBroadband Opening Comments at 10; CalBroadband Reply Comments at 5; Consolidated Opening Comments at 6–7; Opening Comments of Calaveras Tel. Co. (U 1004 C), Cal-Ore Tel. Co. (U 1006 C), Ducor Tel. Co. (U 1007 C), Foresthill Tel. Co. (U 1009 C), Kerman Tel. Co. (U 1012 C), Pinnacles Tel. Co. (U 1013 C), The Ponderosa Tel. Co. (U 1014 C), Sierra Tel. Co., Inc. (U 1016 C), The Siskiyou Tel. Co. (U 1017 C), Volcano Tel. Co. (U 1019 C) (“Independent Small LECs”) on Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 7–8 (filed Sept. 30, 2024) (“Independent Small LECs Opening Comments”); TDS Companies Opening Comments at 7; Comments of CTIA on Ord. Instituting Rulemaking 2–6 (filed Sept. 30, 2024).

<sup>86</sup> Joint Commenters also suggest that the Commission require providers to address preliminary scoping issues that the providers chose not to cover in their opening comments. *See* Joint Commenters Reply Comments at 1. Apart from raising grave concerns under the First Amendment about compelled speech, parties have now had three rounds of pleadings to offer their views.

<sup>87</sup> *See* attach. A.

COLR obligations generally are not needed in such well-served areas.<sup>88</sup> Because the presence of broadband service also guarantees access to voice services, eliminating legacy obligations will not leave customers without communications services.<sup>89</sup> Parties, including the TDS Companies and USTelecom, also underscore consumers' clear preference for voice over broadband instead of POTS service, highlighting the benefits modern technologies offer.<sup>90</sup> Given this agreement and with different types of communities requiring different treatment, Frontier, Consolidated, and various other parties propose that the Commission create two phases for this proceeding.<sup>91</sup> AT&T California supports this approach and respectfully suggests that the Commission reform COLR in two phases, beginning with areas that are well-served with broadband and areas without people before addressing populated areas that are not well-served with broadband. For each phase, AT&T California recommends that the Commission convene constructive, time-bound workshops structured to build consensus on particular issues,<sup>92</sup> a process supported by

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<sup>88</sup> *See supra* Section II; CalBroadband Reply Comments at 4; Frontier Opening Comments at 3; Comcast Reply Comments at 3–7.

<sup>89</sup> *See supra* Section II.

<sup>90</sup> *See supra* Section II.

<sup>91</sup> *See, e.g.*, Frontier Opening Comments at 1–2 (suggesting that the Commission prioritize COLR relief in urban and suburban markets where there is sufficient voice competition); Frontier Reply Comments at 2 (stating that “prioritiz[ing] COLR relief in urban and suburban markets” “represents proverbial ‘low-hanging fruit’”); Consolidated Opening Comments at 5–6 (suggesting that the Commission can provide COLR relief in areas where there is “robust competition for voice service”); Comments of the Cal. Farm Bureau Fed’n on the Ord. Instituting Rulemaking Proceeding To Consider Changes to the Comm’n’s Carrier of Last Resort Rules 3 (filed Sept. 30, 2024) (recommending that the Commission revise the COLR obligations incrementally); USTelecom Opening Comments at 5–6 (suggesting that COLR relief can first be provided in areas where “there are multiple carriers offering similar network-based voice services at competitive prices”); USTelecom Reply Comments at 5 (stating that “the Commission should immediately remove COLR obligations in competitive areas”); AT&T California Reply Comments at 2–3.

<sup>92</sup> *See* AT&T California Opening Comments at 5, 34; AT&T California Reply Comments at 26–27, 29–31.

Rural County Representatives of California (“RCRC”), Cal Advocates, and other parties.<sup>93</sup> Each phase should conclude with a cycle of comments setting forth parties’ understanding of the workshop discussions and then a decision from the Commission.

**A. Phase One Should Address Areas Well-Served with Broadband and Areas Without Population.**

The Commission should focus first on ending the COLR obligations (and permit removal of basic service tariffs) in areas that are already well-served by broadband and areas without people.<sup>94</sup> The Commission adopted the COLR obligations to ensure that all consumers have access to affordable voice service.<sup>95</sup> As discussed above, in the substantial areas of the state that are well-served with broadband,<sup>96</sup> voice service is ubiquitously and reliably available.<sup>97</sup> Voice services delivered by fixed and mobile broadband services are at least as affordable as AT&T California’s POTS service.<sup>98</sup> In areas well-served with broadband, therefore, fixed and mobile

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<sup>93</sup> See Cal Advocates Reply Comments at 22 (agreeing that “workshops with communities and stakeholders will provide critical input specific to communities or regions”); Joint Commenters Opening Comments at 63 (stating that “workshops may be helpful for [the] Commission and Parties to obtain clarification about proposals or other issues in the OIR”); Reply Comments of The Rural Cnty. Reps. of Cal. to Initial Proposals To Consider Changes to the Comm’n’s Carrier of Last Resort Rules at 7–8 (filed Oct. 30, 2024) (“RCRC Reply Comments”) (supporting “various calls for workshops”).

<sup>94</sup> Frontier, Consolidated, CalBroadband, and USTelecom all agree that some areas no longer require COLR obligations, *see* Frontier Reply Comments at 2; Consolidated Reply Comments at 6–7; CalBroadband Reply Comments at 1; USTelecom Reply Comments at 2, while Cal Advocates is open to the proposal, *see* Cal Advocates Reply Comments at 15.

<sup>95</sup> See *1996 CPUC Decision*, 1996 Cal. PUC LEXIS 1046, at \*1–2 (stating that the COLR obligations reflect the Commission’s commitment to ensuring “basic telephone service be made available throughout California, and that the rates for such service remain affordable”).

<sup>96</sup> See *supra* notes 4, 7.

<sup>97</sup> See AT&T California Opening Comments at 23–26; AT&T California Reply Comments at 11–13; Joint Commenters Opening Comments at 17–18 (“The same networks that are being built to provide broadband are also capable of supporting what Californians regard as traditional basic telecommunications service, with its innate ability to support two-way voice communications that is so essential during emergencies.”); USTelecom Opening Comments at 5.

<sup>98</sup> See AT&T California Opening Comments at 15–16; Israel Decl. ¶¶ 34–39 & tbls. 3–4. Comcast and Cox, for example, offer standalone VoIP services that cost less than AT&T California’s POTS service and include unlimited local and long-distance calling. Israel Decl. ¶ 35 & n.32, tbl. 3 (Comcast and Cox

broadband deployment has achieved the purpose of the COLR obligations, which should end along with the basic service tariff requirement.

This first phase also should result in the removal of COLR obligations and the basic service tariff requirement in areas with no people, an outcome that USTelecom endorses and to which Cal Advocates is open.<sup>99</sup> As discussed in its opening comments and above, AT&T California proposes that this category formally be defined as census blocks that satisfy three criteria: (a) the U.S. Census Bureau reports zero population, (b) the applicable COLR does not serve any customer address with basic telephone service in that census block, *and* (c) the National Broadband Map does not report any serviceable locations.<sup>100</sup> Cal Advocates and others agree with this proposal.<sup>101</sup> In those areas, there is no demand for communications services and,

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offer unbundled VoIP service at \$30/month and \$20/month, respectively, as opposed to AT&T California POTS at \$37.50/month). Likewise, T-Mobile, Verizon Wireless, AT&T Mobility, and DISH all offer plans that include nationwide calling and data at prices less than or comparable to AT&T California's POTS service. *Id.* ¶ 36 & tbl. 4 (AT&T California POTS costs \$37.50/month; T-Mobile service starts at \$15/month (Mint Mobile), Verizon Wireless at \$35/month (Straight Talk), AT&T Mobility at \$30/month (AT&T Prepaid and Cricket Wireless), and DISH at \$25/month (Boost Mobile)). DIRECTV, in which AT&T has announced an agreement to sell its interest, has terminated its agreement to acquire DISH's satellite video business because DISH's noteholders failed to agree to the terms of a proposed debt exchange, which was a closing condition. *See DIRECTV Announces Termination of Agreement to Acquire EchoStar's Video Distribution Business*, PR Newswire (Nov. 21, 2024), <https://www.prnewswire.com/news-releases/directv-announces-termination-of-agreement-to-acquire-echostars-video-distribution-business-302313823.html>; *DIRECTV To Acquire EchoStar's Video Distribution Business, Including Dish TV and Sling TV* (Sept. 30, 2023), <https://www.directv.com/insider/directv-and-dish/> (explaining that DISH's mobile wireless business was excluded from the transaction).

<sup>99</sup> *See* USTelecom Reply Comments at 2 (“Where there is ... no population in a given area, there is no longer a need to require ANY one company to maintain a COLR obligation ... .”); Cal Advocates Reply Comments at 15 (stating that the Commission should consider removing COLR obligations in unpopulated areas after receiving input from relevant stakeholders and after assessing zoning and parcel classification and emergency response sites).

<sup>100</sup> AT&T California Opening Comments at 30; *see also* USTelecom Reply Comments at 2; Cal Advocates Reply Comments at 15.

<sup>101</sup> *See* Cal Advocates Reply Comments at 15 (“Cal Advocates does not oppose an evaluation of AT&T's proposal to relieve COLR obligations 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.”); USTelecom Reply Comments at 2 (agreeing that it is not necessary to maintain a COLR

thus, no need for a COLR. If an area becomes populated but does not attract a broadband provider, appropriately funded government programs can ensure deployment of broadband service.<sup>102</sup> In any event, other providers are as well positioned as the COLR to deploy service to such greenfield developments.

AT&T California requests that the Commission arrange constructive, time-bound workshops to add detail to these proposals. As an initial matter, AT&T California believes this proceeding would benefit from technical discussions on the appropriate level of geographic area for determinations that the COLR obligations can end. AT&T California tentatively believes that smaller geographic units like census blocks are better for this purpose because coverage can be analyzed more precisely in smaller areas. However, Cal Advocates' suggestion of census block groups may have merit.<sup>103</sup> AT&T California submits that a technical workshop discussion is more likely to yield a common understanding of the pros and cons of these (and possibly other) suggestions than formal pleadings.

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obligation in areas “where there are no service locations on the National Broadband Map, no basic service customers and the Census Bureau indicates the population is zero”). As discussed above, Cal Advocates proposes two other criteria that appear to be unnecessary.

<sup>102</sup> See AT&T California Opening Comments at 30–31.

<sup>103</sup> See Cal Advocates Reply Comments at 13, 16. Cal Advocates' concerns about cherry-picking, *see id.* at 16, are misplaced because—with the exception of the Independent Small LECs, which want to remain COLRs throughout their territories as long as they continue receiving high-cost support, *see* Independent Small LECs Opening Comments at 2—COLRs are unlikely to want to retain that status anywhere they have the option to relinquish it. The benefits to the URF carriers of being a COLR are simply too small. *See* AT&T Reply Comments at 18 (arguing that the CHCF-B Fund is insufficient to incentivize carriers to become COLRs); AT&T Opening Comments at 32–33 (same); Cal Advocates Reply Comments at 27 (stating that “the CHCF-B [Fund] should be revised to encourage COLR participation” and replacement); Joint Commenters Opening Comments at 39 (stating that the CHCF-B “subsidy amount should be revised to encourage the participation of COLRs in high-cost areas”); *see also* TDS Opening Comments at 9 (arguing that the methodology for computing CHCF-B Fund subsidies is outdated and should be updated). While Cal Advocates' rationale for using census block groups for the area of COLR removal does not appear to withstand scrutiny, there nonetheless may be other reasons to adopt the proposal that would come to light in a workshop discussion.

A technical workshop should also address the various sources for data about broadband coverage and how they have improved over time. While certain parties have criticized government broadband maps in this proceeding,<sup>104</sup> none has identified a superior source of information. As noted above, Commission precedent requires it to use the best available data in the record of a proceeding,<sup>105</sup> which are the government broadband maps based on the most recently collected data. Parties and the Commission Staff should use the workshop to identify reasonable steps for addressing individual concerns about the data, such as a challenge process.

Further discussion amongst the parties about what it means for an area to be well-served with broadband would also be beneficial. Consistent with the FCC’s adequate replacement test, which Joint Commenters rightly praise,<sup>106</sup> coverage from a single broadband provider should establish that an area is well-served.<sup>107</sup> Government broadband-deployment programs like FFA and BEAD implicitly recognize areas with a single broadband provider as well-served. Such programs typically support a single provider per area and do not offer support in areas already served by a single broadband provider.<sup>108</sup> A threshold of one broadband provider also is consistent with the purpose of the COLR obligations—to ensure that all consumers have access to affordable and reliable voice service—because, as discussed above, the availability of any broadband service means access to affordable, reliable voice service. Indeed, since the Commission adopted the COLR rules, it has required the presence of only a single designated

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<sup>104</sup> See Joint Commenters Opening Comments at 33–34; Joint Commenters Reply Comments at 16–17.

<sup>105</sup> See *supra* note 64.

<sup>106</sup> Joint Commenters Opening Comments at 9.

<sup>107</sup> See 47 C.F.R. § 63.602(b) (noting that even “one . . . replacement service[]” “is an adequate replacement” so long as it satisfies all the criteria set forth under the rule, including offering “substantially similar levels of network infrastructure and service quality as the service being discontinued” and “comparably effective protection from network security risks as the service being discontinued”).

<sup>108</sup> See AT&T California Opening Comments at 4–5; AT&T California Reply Comments at 27.

COLR per area. Cal Advocates suggests that two available broadband providers suffice to remove the COLR obligations.<sup>109</sup> In any event, multiple facilities-based fixed or mobile broadband providers offer service in nearly all populated areas of the state.<sup>110</sup> Given the parties' positions and the facts, a workshop on this topic could yield a consensus or at least a compromise acceptable to most. At a minimum, further discussion and comments on this topic could assist the Commission in issuing a decision on this key issue.

AT&T California also recognizes there may be a small number of local communities that—because of their distinctive factors—continue to have a compelling need for a safety-net voice service for emergencies despite being well-served with broadband. Such areas may include those that are particularly disaster-prone, as RCRC suggests.<sup>111</sup> In this phase, workshops should address whether and how removal of COLR obligations will have any material impact on the availability of voice service for these communities.

With broadband deployment expanding rapidly and poised to continue for a number of years, additional areas will become well-served with broadband, however the Commission defines areas and well-served. To keep up with these changes, the Commission should establish a clear and straightforward mechanism for removing COLR obligations in newly well-served areas after workshop discussions of what this mechanism should be.

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<sup>109</sup> Cal Advocates Opening Comments at 55 (broadband service from the COLR and one other provider). As discussed above, Cal Advocates' proposed minimum speed requirements are not tenable. *See supra* at 19–20 & n.65.

<sup>110</sup> *See supra* notes 4, 7; *see also* Comcast Reply Comments at 2 (“For many well-served Californians, competition has thus increased from just one POTS provider to multiple providers offering each type of voice technology. Fixed, mobile, and OTT VoIP providers often compete in the same areas for the same voice customers.”).

<sup>111</sup> RCRC Reply Comments at 5.

The workshops also should address what, if any, notices are needed and be followed by comments and a Commission decision.

**B. Phase Two Should Consider the Complexities of COLR Reform in Populated Areas That Are Not Well-Served.**

Once the Commission has reformed the COLR obligations for the vast majority of the population who live in well-served areas and for unpopulated areas, the second phase of this proceeding should focus on the more complex issues posed by populated areas that are not well-served with broadband.<sup>112</sup> Only a very small fraction of the population lives in these last areas.<sup>113</sup> These “smallest and least populated areas [that] still do not have ubiquitous alternative providers of basic telephone service” are why Joint Commenters contend the COLR “rules remain necessary.”<sup>114</sup> Many of these areas will gain broadband service through providers’ continued buildout, whether using their own capital or public support from programs such as FFA and BEAD; some may not. Apart from not being well-served, however, these areas have substantial differences, which may defy a one-size-fits-all solution.<sup>115</sup> RCRC and other commenters agree.<sup>116</sup> AT&T California recommends that the Commission convene workshops during this second phase for the relevant stakeholders to develop an appropriate range of solutions.

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<sup>112</sup> CalBroadband generally supports this approach. *See* CalBroadband Reply Comments at 1–2 (“To the extent the Commission finds COLR obligations remain necessary ... in limited areas that lack competition, the Commission should ... reassess the level of competition in the future.”).

<sup>113</sup> *See* Israel Decl. ¶¶ 6–7, 9.

<sup>114</sup> Joint Commenters Reply Comments at 3.

<sup>115</sup> AT&T California Opening Comments at 31–32 (footnote omitted) (“Some areas qualify as high-cost—meaning that they qualify under historic rules related to the cost to deploy and maintain networks—and, thus, are eligible for CHCF-B Fund support. Tribal lands, at least in some cases, present different challenges. And the state’s varied geography and topography—mountain areas, desert regions, coastal communities, and offshore islands—may demand varied solutions.”).

<sup>116</sup> *See* AT&T California Reply Comments at 17 nn.63–67 (noting agreement of Frontier, USTelecom, and EQUAL); *see also* RCRC Reply Comments at 6 (calling for “nuanced policies” in underserved areas).



The guiding principle for these workshops should be that ensuring service for all is a public good and a public responsibility.<sup>117</sup> Just as hard-to-serve areas require public resources to support broadband deployment,<sup>118</sup> these areas require public funding to offset the COLR’s costs of continuing to provide service or, if the COLR desires to relinquish its designation, to ensure a voluntary replacement. AT&T California agrees with Cal Advocates and Joint Commenters that “the CHCF-B [Fund] should be revised to encourage COLR participation” and replacement,<sup>119</sup> by expanding the scope of the program to reach more lines, by increasing the support provided for each line, or both.<sup>120</sup> As with phase one, the workshops should consider what, if any, notices are needed and be followed by comments and a Commission decision.

**C. The Commission Should Recategorize This Proceeding as Quasi-Legislative.**

After considering the comments and reply comments, AT&T California agrees with those parties that have requested the Commission to recategorize this proceeding as quasi-legislative.<sup>121</sup> This proceeding raises a number of difficult questions. Some will require technical precision, and some will require brainstorming and other collaborative activities. The greater freedom for discussions afforded by quasi-legislative procedures will facilitate these efforts.

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<sup>117</sup> AT&T California Opening Comments at 7; AT&T California Reply Comments at 18; *see also supra* at 16.

<sup>118</sup> Israel Reply Decl. ¶¶ 18–22.

<sup>119</sup> Cal Advocates Reply Comments at 27; *see also* Joint Commenters Opening Comments at 39 (stating that the CHCF-B “subsidy amount should be revised to encourage the participation of COLRs in high-cost areas”).

<sup>120</sup> AT&T California Opening Comments at 32–33; AT&T California Reply Comments at 18; Joint Commenters Opening Comments at 39–40; Cal Advocates Reply Comments at 28 (“Cal Advocates does not oppose AT&T’s proposal that the Commission should consider reforming the CHCF-B to incentivize service providers to seek COLR status in high-cost areas.”); *see generally* Cal. Pub. Util. Code § 276.5 (establishing the CHCF-B Fund to support “telephone corporations serving areas where the cost of providing services exceeds rates charged by providers”).

<sup>121</sup> *See* CalBroadband Reply Comments at 8–10; Consolidated Opening Comments at 10; Independent Small LECs Opening Comments at 4–5; TDS Companies Opening Comments at 5.

Some parties have argued for preserving the preliminary categorization as ratesetting because COLR reform affects rates.<sup>122</sup> Yet, the Commission has classified a number of rulemakings with far greater impact on rates as quasi-legislative.<sup>123</sup> It should do the same here as well.

## V. CONCLUSION

For the reasons shown above, the Commission should adopt AT&T California's revised proposals set forth herein.

Dated: December 6, 2024.

Respectfully submitted,

AT&T California

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<sup>122</sup> See Cal Advocates Reply Comments at 46.

<sup>123</sup> See *Rulemaking on the Comm'n's Own Motion into the Third Triennial Review of the Regul. Framework Adopted in Decision 89-10-031 for GTE Cal. Inc. & Pac. Bell*, D.98-10-026, 1998 Cal. PUC LEXIS 669 (Oct. 8, 1998); *Ord. Instituting Rulemaking on the Comm'n's Own Motion To Assess & Revise the Regul. of Telecomms. Utils.*, 2006 Cal. PUC LEXIS 367; *Rulemaking on the Comm'n's Own Motion To Review the Telecomms. Pub. Pol'y Programs*, D.10-11-033, 2010 Cal. PUC LEXIS 532 (May 25, 2006).

# **ATTACHMENT A**



**AT&T**

## **AT&T CALIFORNIA'S REVISED PROPOSAL TO REFORM COLR POLICY**

Submitted in CPUC Rulemaking 24-06-012 on Dec. 6, 2024

### **Phase One**

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- **Remove COLR obligations and permit removal of basic service tariffs in areas that are already well-served by facilities-based fixed and mobile broadband.**
  - Define “area” as census block.
  - Define “well-served” as the presence of one or more alternative facilities-based fixed or mobile broadband provider(s) serving the area.
  - Establish straightforward mechanism for removing COLR obligations in areas that become well-served with broadband in the future as broadband deployment expands.
- **Remove COLR obligations and basic service tariff in areas that have no people, defined as census blocks for which three criteria are satisfied:**
  - (a) the U.S. Census Bureau reports zero population,
  - (b) the applicable COLR does not serve any customer address with basic telephone service in that census block, *and*
  - (c) the National Broadband Map does not report any serviceable locations.
- **Use most recently available government broadband maps as data source for areas subject to COLR reform.**
- **Conduct technical workshops for the rulemaking’s parties to refine proposals, including at a minimum:**
  - Appropriate level of geographic area for determinations that COLR obligations can end.
    - AT&T California supports census blocks but believes census block groups could be considered.
  - What it means for an area to be “well-served” with broadband.
    - AT&T California believes coverage from a single broadband provider should establish that an area is well-served.
  - Data sources for broadband coverage, remaining limitations on government fixed and mobile broadband mapping data, and reasonable steps to address them.
    - AT&T California supports the government broadband maps based on the most recently collected data.
  - Whether and how removal of COLR obligations will have any material impact on the availability of voice service for local communities that—because of their distinctive factors—continue to have a compelling need for a safety-net voice service for emergencies despite being well-served with broadband.
  - What notices, if any, are needed.
    - AT&T California believes that notices other than for service discontinuances will be unduly confusing to consumers.
- **Provide for a comment cycle following the workshops.**
- **Issue a Phase One decision removing the COLR obligations and permitting removal of the basic service tariffing requirements in areas that are well-served with broadband or have no people.**



**AT&T**

## **AT&T CALIFORNIA'S REVISED PROPOSAL TO REFORM COLR POLICY**

Submitted in CPUC Rulemaking 24-06-012 on Dec. 6, 2024

### **Phase Two**

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- **Address populated areas that are not well-served with broadband.**
- **Convene technical workshops for the rulemaking's parties to develop an appropriate range of solutions for populated areas that are not well-served with broadband.**
- **The workshops should address, at a minimum:**
  - Substantial differences among these areas that may defy a one-size-fits-all solution.
  - Public funding sources to offset COLR's costs of continuing to provide service or, if the COLR desires to withdraw, to ensure a voluntary replacement.
  - What notices, if any, are needed.
    - AT&T California believes that notices other than for service discontinuances will be unduly confusing to consumers.
- **Provide for a comment cycle following the workshops.**
- **Issue a Phase Two decision.**

# **ATTACHMENT B**



**AT&T**

## COLR PROPOSED SCHEDULE

Prehearing Conference	December 13, 2024
Scoping Memo	January 2025

### Phase One

Workshops with Party Participants & Neutral Mediator	January 2025
Staff Report on Workshops	February 2025
Opening & Reply Comments	March 2025
Proposed Decision	June 2025
Opening & Reply Comments on Proposed Decision	July 2025
Commission Decision	August 2025 (No later than 60 days after PD)

### Phase Two

Workshops with Party Participants & Neutral Mediator	September 2025
Staff Report on Workshops	October 2025
Opening & Reply Comments	November 2025
Proposed Decision	February 2026
Opening & Reply Comments on Proposed Decision	March 2026
Commission Decision	April 2026 (No later than 60 days after PD)