



FILED

05/12/25

04:59 PM

R2203016

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

Order Instituting Rulemaking Proceeding to
Consider Amendments to General Order 133.

R.22-03-016
(Issued March 23, 2022)

OPENING COMMENTS OF

**CALAVERAS TELEPHONE COMPANY (U 1004 C)
CAL-ORE TELEPHONE CO. (U 1006 C)
DUCOR TELEPHONE COMPANY (U 1007 C)
FORESTHILL TELEPHONE CO. (U 1009 C)
HAPPY VALLEY TELEPHONE COMPANY (U 1010 C)
HORNITOS TELEPHONE COMPANY (U 1011 C)
KERMAN TELEPHONE CO. (U 1012 C)
PINNACLES TELEPHONE CO. (U 1013 C)
THE PONDEROSA TELEPHONE CO. (U 1014 C)
SIERRA TELEPHONE COMPANY, INC. (U 1016 C)
THE SISKIYOU TELEPHONE COMPANY (U 1017 C)
VOLCANO TELEPHONE COMPANY (U 1019 C)
WINTERHAVEN TELEPHONE COMPANY (U 1021 C)
(THE "SMALL LECS")**

ON PROPOSED DECISION OF COMMISSIONER HOUCK

Patrick M. Rosvall
BRB Law LLP
492 Ninth Street, Suite 220
Oakland, CA 94607
Phone: (510) 955-1081
E-mail: patrick@brblawgroup.com

Attorneys for the Small LECs

May 12, 2025

I. INTRODUCTION.

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”) and the comment deadlines set forth in the April 11, 2025 letter to all parties from Chief Administrative Law Judge Michelle Cooke, Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), Winterhaven Telephone Company (U 1021 C) (the “Small LECs”) submit these opening comments on the Proposed Decision of Commissioner Houck (“Proposed Decision”).

The Proposed Decision represents a sweeping expansion of General Order (“G.O.”) 133-D, and includes unprecedented changes, many of which are not supported by adequate legal, factual, or policy bases. Moreover, as drafted, the Small LECs are not exempted from any aspects of Proposed G.O. 133-E, and the Proposed Decision fails to consider the Small LECs’ unique challenges as small, rural carriers that make it impracticable to comply with these sweeping revisions. If G.O. 133-E goes into effect as drafted, the Small LECs will be forced to implement costly operational changes to stay in compliance with G.O. 133, without any reasonable cost recovery mechanisms. Moreover, the Proposed Decision fails to acknowledge that the Small LECs’ service quality standards are already closely regulated through the rate case process. Given the enormous resources that the companies and the Commission devote to navigate such rate cases, and the broad scope of those proceedings that includes service quality, the proposed expansions of G.O. 133 are duplicative of the rate case process. This is especially true given that the Small LECs have a robust service quality record, which the Commission has consistently acknowledged.¹

The Small LECs question the need for drastic change to G.O. 133 as a whole, as the proposals in the Proposed Decision appear to lack a discernible nexus to service quality problems, certainly as they pertain to the Small LECs. Therefore, the right approach here would

¹ *Service Quality Outage Analysis* (Apr. 17, 2023) (“*Staff Report*”) at 11; *Service Quality Proceeding Phase One Staff Proposal* (“*Staff Proposal*”) (Jun. 27, 2024) at 40.

be to revamp the proposed G.O. 133-E, but the Small LECs' comments are focused on both areas where they should be exempted and items as to which the requirements would unduly burden these small, community-focused carriers with a strong service quality record.

II. THE PROPOSED INSTALLATION STANDARD DEMANDS AN UNJUSTIFIABLE AND UNATTAINABLE STANDARD OF PERFECTION.

The Proposed G.O. 133-E's Installation Standard would have carriers fulfill 100% of customer service orders for basic service within five business days, seemingly without any justification.² In so doing, the Proposed Decision and the Staff Proposal recognize that the current Installation Standard only applies to the Small LECs, who demonstrate a "high level of compliance" with that standard.³ There is no additional rationale explaining why the Proposed Decision now seeks to impose a standard of perfection on carriers. Since compliance is already high and there is no demonstrated problem with this dimension of service quality, the Installation Standard should remain at the current 95%.

III. THE "ANSWER TIME" COMPONENT OF THE CUSTOMER SERVICE STANDARD EXPANDS REQUIREMENTS WITHOUT SUPPORT AND IMPOSES REQUIREMENTS THAT ARE IMPRACTICABLE FOR THE SMALL LECs TO MEET.

The Proposed Decision significantly departs from the current Answer Time requirements, both in the criteria itself and in the reporting requirements. G.O. 133-E introduces a new Customer Service Standard that mandates, in relevant part, that: (1) "[a] customer representative must answer 90% of the customer service calls within 60 seconds" and (2) carriers must "[m]aintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week."⁴ G.O. 133-E also vastly expands the reporting requirement by categorically imposing it on all Carriers of Last Resort, certain interconnected fixed Voice over Internet Protocol ("VoIP") providers, and nationwide facilities-based wireless carriers.⁵ It notably removes the unit threshold in G.O. 133-D's, limiting the Answer Time reporting requirements to "traffic office[s] serving 10,000 or more lines."⁶ The Proposed

² Proposed G.O. 133-E, § 2.1(a).

³ *Proposed Decision* at 125.

⁴ *Id.* at 141.

⁵ Proposed G.O. 133-E, § 2.5.

⁶ G.O. 133-D, § 3.5(d); see also *California Wireline Telephone Service Quality Pursuant to General Orders 133C and 133 Calendar Years 2014 through 2016 California Public Utilities Commission*

Decision should be revised to: (1) restore the G.O. 133-D unit reporting threshold for the new Customer Service Standard and (2) remove the requirement to maintain a toll-free or collect call access line 24 hours a day, seven days a week.

A. The Proposal to Eliminate the “Reporting Unit” Threshold From the Customer Service Standard Is Unsupported By Record Evidence, Legal Authority, and Policy.

The “reporting unit” threshold of 10,000 lines is important to retain to properly reflect the limitations of smaller carriers, especially those with high-cost dynamics like the Small LECs. The record evidence does not support, nor does the Proposed Decision adequately justify lifting the unit threshold, but the revisions have the consequence of sweeping in the Small LECs even though most of them have never been subject to this requirement. Indeed, virtually all of the Small LECs have long been exempt from this reporting requirement. Currently, all but one of the Small LECs⁷ are exempt from Answer Time reporting, a fact that the Commission has oft acknowledged and expressly permitted.⁸ Under G.O. 133-E, all of the Small LECs would be subject to the Customer Service Standard reporting requirement. Although the Proposed Decision acknowledges the Small LECs’ rationale to maintain the unit threshold,⁹ it provides no factual, legal, or policy basis to explain why the Small LECs should be subject to this reporting requirement.¹⁰

The size-based limitation in the current G.O. 133-D is founded on important policy considerations. Although the Proposed Decision treats the 10,000 line threshold as arbitrary, it

Communications Division Staff Report (May 8, 2018) at 24 (“Carriers are only required to report Answer Time data for their traffic offices serving 10,000 or more lines.”).

⁷ Sierra Telephone Company, Inc. is subject to the G.O. 133-D Answer Time reporting requirement because it has more than 10,000 access lines.

⁸ See, e.g., D.19-06-025 at 28 (“Ducor is correct that § 3.5(d) of GO 133-D is not applicable here because Ducor serves fewer than 10,000 lines.”); D.19-04-017 at 62 (“The requirements of § 3.5(d) are not applicable to Foresthill because they have fewer than 10,000 lines and therefore, are not subject to this reporting requirement under GO 133-D.”); see also Res. T-17607 (Jul. 26, 2018) at 8 (noting that “Foresthill did not submit data because it reported less than the minimum 10,000 working lines required under the GO for the Answer Time standard”) and n. 11 (noting that “Volcano voluntarily reported its Answer Time data even though it reported fewer than the minimum 5,000 customers and 10,000 working lines.”) (underlined emphasis added); *California Wireline Telephone Service Quality Staff Report* (May 8, 2018) at 24 (explaining that “Carriers are only required to report Answer Time data for their traffic offices serving 10,000 or more lines. Some carriers also voluntarily opted to report answer time data even though they are not required to do so.”).

⁹ *Proposed Decision* at 133-134.

¹⁰ See *id.* at 140-142.

serves a meaningful purpose—it accommodates the unavoidable fact that small providers that serve under 10,000 access lines have limited resources. Indeed, as small, rural service providers serving high-cost areas, the Small LECs face unique challenges, including high fixed costs and limited resources. Even absent the nuances of cost recovery,¹¹ the Small LECs are less equipped to absorb increased operational costs that larger providers can accommodate with ease. Yet, the Proposed Decision includes no discussion of Small LECs unique circumstances and offers no justification for lifting the reporting threshold. These features of the Small LECs’ size cannot be ignored, and the Commission cannot continue to pile on additional regulatory burdens on these closely-regulated carriers without providing some reasonable way to recover the associated costs.

The Customer Service Standard is intended to improve customer service, as evidenced by the Proposed Decision’s sole justification that “numerous customers commented on their frustrations with receiving prompt response [to] their billing disputes and other service inquiries.”¹² However, this concern is not relevant to the Small LECs, who have historically strong service quality records, including its Answer Time metrics for those who have submitted them.¹³ As such, this expansion will not benefit customers, and will only serve to generate unjustifiable costs and burdens on the Small LECs.¹⁴ Absent any sound rationale, the Customer Service Standard reporting requirement should restore the unit threshold currently mandated by G.O. 133-D’s Answer Time reporting requirement.

B. The Proposed Decision Fails to Provide Adequate Reasoning to Support the Requirement that Carriers Maintain 24/7 Answering and Web “Chat” Functions.

The Customer Service Standard also embodies two entirely new requirements. First, it includes a mandate to “maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.”¹⁵ While there is some recognition that an automated system could be used on weekends and holidays and outside business hours, not all Small LECs rely on automated customer service systems. Given the

¹¹ See Section VIII.

¹² *Proposed Decision* at 140.

¹³ See *Telecommunications Service Quality Reports*, available at: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/network-performance-and-public-safety/telecommunications-carriers-service-quality-reports>.

¹⁴ See Section VIII.

¹⁵ Proposed G.O. 133-E, § 2.5(a)(i).

community-focused ethics and unique manner in which these companies communicate with their customers, forcing them all to implement—and pay for—24/7 automated calling systems would not be in their public interest. The Small LECs generally prefer to approach customer service with a personal touch, so forcing them all into Interactive Voice Response (“IVR”) options, would be harmful to customer relationships and disruptive to many of their business models.

In addition to the unjustifiable cost, the Small LECs are not aware of any record evidence to support this proposed requirement. The Staff Proposal does not propose a similar requirement,¹⁶ and there is also no support for this among party comments. While the Proposed Decision acknowledged the Small LECs concerns,¹⁷ it fails to address these concerns or offer any rationale supporting the need for the Small LECs to incur these costs. The Proposed Decision also claims that this requirement is consistent with federal standards.¹⁸ However, the Commission cites a statute from the federal Cable Act which only applies to cable operators, not telephone corporations.¹⁹ The Proposed Decision offers no additional legal support, and the Small LECs are not aware of any statutes that support the proposed requirement. For these reasons, the requirement mandating a 24/7 line should be removed from G.O. 133-E.

Second, for similar reasons, the requirement to insert a “chat” function on all Small LEC websites would be disruptive to their more personal business models, and implementation of this proposal would require costly revamps to their websites.²⁰ These prescriptive requirements cannot be justified. Again, the Small LECs have already developed highly successful means of communicating with customers in the small communities that they serve. Many customers prefer to come to the companies’ business offices to interact in person, and in these communities, reliance on “chatbots” may be very poorly received. For similar reasons, chat functions may have a difficult time being attuned to the community needs in these areas. Even the most sophisticated Artificial Intelligence (“AI”) cannot replicate the decades and centuries of institutional experience that the Small LECs have in understanding the needs of these communities and interacting with customers in the way that they prefer.

The Small LECs should be exempted from both the 24/7 toll-free number requirement

¹⁶ *Staff Proposal* at 41-42.

¹⁷ *Proposed Decision* at 134.

¹⁸ 47 C.F.R. Section 76.309(c)(1)(i) and (ii).

¹⁹ *See* 47 C.F.R. § 76.309(c)

²⁰ Proposed G.O. 133-E § 2.5(a)(iii).

and the chat function requirement. These will be expensive proposals for many companies to implement and the cost simply cannot be justified.

IV. THE “SUNDAY AND FEDERAL HOLIDAY” EXEMPTION APPROPRIATELY ACCOMMODATE CARRIERS WITH LIMITED RESOURCES AND STAFFING AND SHOULD BE INCLUDED IN THE POTS AND VOIP OUTAGE REPAIR STANDARD.

The Proposed Decision also significantly departs from G.O. 133-D by removing a longstanding exemption for Sundays and holidays from the Plain Old Telephone Service (“POTS”) and Voice Over Internet Protocol (“VoIP”) Outage Repair Standard,²¹ without offering any reasoning.²² The Staff Proposal that predates the Proposed Decision also recommended removing this exemption, and explained that “Sundays and federal holidays are regular occurrences for which exemption does not seem appropriate in the current marketplace,” concluding that customers “should have access to essential services at all times.”²³ However, this adjustment is necessary for the Small LECs, which serve extremely rural and mountainous service territories with limited resources. These service territories are prone to events that may delay response and restoration of service, simply because of the vast geographies, rugged terrain, and unpredictable weather involved. The record suggests that the same is also true for other carriers, but this is especially concerning for the Small LECs.²⁴ Moreover, when the exemption was adopted in 2009, the Commission had already considered this exact issue and ultimately adopted an adjustment for Sundays and federal holidays, while declining to do full weekends and all holidays.²⁵ Neither the Proposed Decision nor the Staff Proposal have identified any changed circumstances or other reasons that justify eliminating this important exemption.²⁶ At a minimum, this exception should apply to the Small LECs.

²¹ *Proposed Decision* at 101-102.

²² *Ibid.*

²³ *Staff Proposal* at 24.

²⁴ *CalBroadband Opening Comments on Staff Report* (May 18, 2023) at 12-13 (noting that the adjustment for Sundays and federal holidays reasonably accommodates carriers’ employee schedules).

²⁵ *Ibid.*

²⁶ *See Proposed Decision* at 101-102; *see also Staff Proposal* 24.

V. THE “BEYOND THE CARRIER’S CONTROL” EXEMPTION SHOULD NOT BE CONVERTED TO A NARROW, ENUMERATED SET OF EXEMPTIONS FOR THE POTS AND VOIP OUTAGE REPAIR STANDARD AND THE INSTALLATION STANDARD.

The current Out of Service (“OOS”) Repair Intervals Standard properly recognizes the need for flexibility in exemptions when “maintenance is delayed due to circumstances beyond the carrier’s control,” by offering a non-exhaustive list of examples of such circumstances.²⁷ The Proposed Decision removes this flexibility from the new POTS and VoIP Outage Repair Standard by converting many of the once non-exhaustive circumstances into an enumerated set of exemptions, and eliminating the general exemption from which the non-exhaustive requirements originated.²⁸ The Proposed Decision does not provide reasoning to support the proposed exemptions to the POTS and VoIP Outage Repair Standard, save for one naked assertion that “clearly defined exemptions associated with events outside of carrier control will provide proper incentives to carriers to respond promptly to outages that are within their control.”²⁹ The Proposed Decision also applies the enumerated exemptions to the new Installation Standard,³⁰ though the Proposed Decision provides no support justifying the addition of these exemptions to the new Installation Standard.³¹

Even if the Commission declines to restore the flexible “beyond the carrier’s control” exemption, the enumerated exemptions still would not adequately capture the full range of circumstances beyond a carrier’s control that may impact either installation or service restoration. Specifically, the current proposed exemptions do not contemplate that other state, local, or federal permitting requirements may prevent carriers from meeting installation or repair standards. The Proposed Decision seems to acknowledge this, as it includes an exception for time required to obtain permitting from the 811 Underground Service Alert Program (“811”). There is no reason to limit this exception to a specific program when 811 is only one of many

²⁷ G.O. 133-D, § 3.4(b).

²⁸ Compare G.O. 133-D, § 3.4(b) with G.O. 133-E, § 2.2(c)(i)-(vii).

²⁹ *Proposed Decision* at 102; see also *Proposed Decision* at 129 (remaining silent on the issue of Installation Standard exemptions).

³⁰ G.O. 133-E, § 2.1(c)(i)-(vii).

³¹ See *Proposed Decision* at 125 (showing that Commission only sought comment on whether the new Installation Standard should apply to all wireline companies); see also *Staff Proposal* at 39-41 (Staff Proposal does not consider or propose any exemptions to the Installation Standard).

potential permitting requirements a carrier may encounter.³² The Proposed Decision itself supports this expansion, as it acknowledges that when a permit is required to complete installation or repair work, “the time it takes . . . to grant access to premise or issue permit” is beyond a carrier’s control.³³ In view of the strong record evidence, the Commission should provide an exemption for all state, local, or federal permitting requirements for Installation Standard and the POTS and VoIP Outage Repair Standard.

VI. THE SMALL LECS SHOULD NOT BE SUBJECT TO THE PROPOSED CORRECTIVE ACTION PLAN NOR THE OUTAGE FINE MECHANISM AS THEIR SERVICE QUALITY STANDARDS ARE CLOSELY REGULATED THROUGH THE RATE CASE PROCESS.

The Small LECs are rate-of-return carriers, and as such, are already subject to extensive examination of their service quality during the rate case process—and through many informal inquiries at the discretion of the Commission and its Communications Division staff. Through this process, the Commission has confirmed the Small LECs long history of strong service quality.³⁴ Indeed, the Small LECs have been subjected to numerous, uniquely tailored reporting requirements pursuant to their respective rate cases. However, G.O. 133-E threatens to impose another set of reporting requirements on the Small LECs and, with it, certain enforcement mechanisms that should not apply to the Small LECs given their track record and regulatory status. The Small LECs should be exempt from the proposed Corrective Action Plan (“CAP”)³⁵ and Outage Standards Fine Mechanism.³⁶

The Small LECs should be exempt from the proposed CAP enforcement mechanism because it is functionally equivalent to—and potentially duplicative of—the analysis in a rate case. Rate cases generally occur on a regular schedule,³⁷ and the Small LECs that participate are regularly subject to extensive service quality examinations, which result in annual reporting

³² See, e.g., *Small LECs Opening Comments on Staff Proposal* (Sep. 3, 2024) at 5 (explaining that because the Small LECs’ service territories occupy Bureau of Land Management and United States Forest Service land and must receive authorization to enter those areas which can take “days or weeks”).

³³ *Proposed Decision* at 101, n. 289.

³⁴ E.g., *Staff Report* at 11 (noting that the Small LECs “consistently met the Adjusted OOS standard” and that the Small LECs “Unadjusted OOS standard” outperformed those of the URC ILECs and URF CLECs); *Staff Proposal* at 40 (finding a “high level of compliance” with the current Installation Interval and Installation Commitment Standards); D.14-12-084 at 22 (recognizing the Small LECs’ “generally high service quality performance”).

³⁵ Proposed G.O. 133-E, § 4.

³⁶ *Ibid.*, §§ 2.2(f), 2.4.

³⁷ See D.20-08-011, Appendix C (outlining current rate case cycle and prescribed test years).

requirements. Examination of service quality during a rate case is also not conditioned by poor service quality; it happens as a matter of course. Comparatively, the CAP enforcement mechanism is intended to ensure that carriers that are subject to CAP “demonstrate meaningful progress in meeting service quality standards within a two-year span.”³⁸ The consequence for failing to make “substantial documented progress” on CAP results in a Commission investigation into any continued noncompliance.³⁹ Based on the Small LECs’ excellent service quality record, it is unlikely that any of the companies would trigger CAP. However, in the potential event that any of the Small LECs were subject to CAP, the entire process would be subsumed by the rate case process, resulting in extensive waste of resources for the Commission and the companies alike. The Proposed Decision offers no reasoning to explain why the Small LECs should be subject to this enforcement mechanism when they participate in regular rate cases.⁴⁰ Absent adequate rationale that is supported by factual or legal support, the Commission should exempt the Small LECs from the proposed CAP enforcement mechanism to avoid interference and duplication of the consideration of service quality in the rate case process.

For similar reasons, the Small LECs should not be subject to the proposed fine mechanism for the POTS and VoIP Outage Repair Standard. The primary purpose of the fine mechanism is to incentivize carriers to prioritize timely service restoration. Even if a *reasonable* fine mechanism may increase compliance with the POTS and VoIP Outage Repair Standard, this mechanism is clearly intended for carriers who are not already subject to regular and intensive service quality examinations. This is not the Small LECs’ circumstance, as most of the Small LECs appear before the Commission on a regular basis for rate cases. Subjecting the Small LECs to both the rate case process and the proposed fine mechanism will not doubly incentivize their compliance, but rather, will create financial uncertainties that will negatively affect their ability to serve its customers—for no countervailing benefit.

Moreover, both the “automatic credit” and General Fund fines represent a “one size fits all” approach that may incentivize large telephone corporations to achieve compliance but do not consider the Small LECs’ high-cost dynamics or their status as rate-of-return carriers. Complying with the proposed “automatic credit” fine would require the Small LECs to expend

³⁸ Proposed G.O. 133-E, § 4.

³⁹ *Ibid.*

⁴⁰ *Proposed Decision* at 123-124.

significant labor and cost to modify or replace their information technology systems to automatically issue customer credits within the 30-day processing period. The Small LECs do not have the resources to absorb increased administrative costs, especially because these costs are likely to be unrecoverable. Similarly, the General Fund fine is a flat \$5 per access line, subject to a hefty multiplier. The use of a flat rate fine means that the Small LECs will be significantly more impacted by the proposed General Fund fine than a larger company with more resources. Even with these marked differences between the Small LECs and other telephone corporations, the Proposed Decision fails to justify why the Small LECs should be subject to the proposed fine mechanism for the new POTS and VoIP Outage Repair Standard.⁴¹

VII. IF THE COMMISSION PROCEEDS WITH THE PROPOSED ADJUSTMENTS TO G.O. 133 REFLECTED IN THE PROPOSED DECISION, THE COMMISSION NEEDS TO LIFT THE CORPORATE OPERATIONS AND CORPORATE EXPENSE CAPS SO THAT THE SMALL LECs ARE NOT DENIED THE NECESSARY COST RECOVERY.

The Proposed Decision would impose expansive requirements that would require the Small LECs to expend exorbitant costs to comply with G.O. 133-E. However, through their ratemaking apparatus, most of the Small LECs are subject to arbitrary operating and corporate expense caps adopted in the California High Cost Fund A (“CHCF-A”) rulemaking.⁴² Unless the Commission authorizes otherwise, the Small LECs cannot recover expenses exceeding those caps. The Commission has never authorized an increase in any cap for any company, so the standard for any exceptions is very high in practice, regardless of whether that is reasonable. The corporate expense cap was determined using after the Federal Communications Commission’s methodology, which uses national averages that do not capture California-specific costs.⁴³ In addition, the operating expense cap was calculated without considering certain Small LECs critical operating expenses, including rate case expenses, expenses associated with operating in a post-pandemic world, and expenses for industry developments required to response to expense-generating events.⁴⁴ Certainly, neither of these caps account for

⁴¹ *See Proposed Decision* at 83.

⁴² D.21-06-004 at 43 (OPs 6-7) (imposing strict corporate and operating expense caps that are “non-rebuttable”).

⁴³ *Opening Brief of the Small LECs* (Apr. 21, 2020), R.11-11-007, at 54.

⁴⁴ *Id.* at 56.

burdensome, forward-looking events that are idiosyncratic to California's service quality standards and reporting apparatus.

Given that the expense caps are rote metrics that do not consider the Small LECs' actual expense profiles, any unanticipated operational expenses imposed through the G.O. 133 revisions will put the Small LECs at risk of incurring unrecoverable costs. Given the exorbitant costs that will be required to come in compliance with the proposed G.O. 133-E, the Small LECs request that the Commission include a cost recovery mechanism for these compliance costs. There is strong legal support authorizing the proposed cost recovery mechanism. When the Commission adopted the Small LECs' operating and corporate expense caps, it "recognize[d] that there may be situations . . . that may cause the Small ILECs to incur additional expense."⁴⁵ To that end, the Commission decided that "if and when those events arise, we will evaluate and consider authorizing additional funding to the Small ILECs."⁴⁶

In full view of the proposed revisions to G.O. 133-D and their impact on small rate-of-return carriers, the Small LECs urge the Commission to authorize additional funding to support compliance costs associated with the proposed G.O. 133-E. In each of the preceding sections, the Small LECs identified concrete ways in which the sweeping and expansive proposed revisions contained in G.O. 133-E will markedly increase the Small LECs' costs. The Proposed Decision itself even acknowledges many, if not all, of these same potential cost increases.⁴⁷ Importantly, the Small LECs are not aware of any record evidence that would preclude the Commission from authorizing additional funding or rate relief by making these expense caps more flexible as they are applied in rate cases. In fact, while the Proposed Decision acknowledged the Small LECs' operating and corporate expense caps, it did not suggest that a cost recovery mechanism had been ruled out.⁴⁸ As such, a G.O. 133-specific cost recovery mechanism is both warranted and legally sound and should be adopted here.

VIII. CONCLUSION.

Service quality is a cornerstone of the Small LECs' operations, and the Small LECs are deeply committed to and successful in providing high-quality service to their customers. The

⁴⁵ D.21-06-004 at 27.

⁴⁶ *Ibid.*

⁴⁷ See, e.g., *Proposed Decision* at 75, 82-83 118, 134-135, 144.

⁴⁸ See *Proposed Decision* at 75-76 (citing the Small LECs concerns about unrecoverable costs without responding to those concerns).

Small LECs appreciate the opportunity to comment on the Proposed Decision, which contemplates revisions to the current service quality standards. These revisions, however, would impose expansive changes to the current standards that are not supported by fact, law, or policy. The revisions also fail to consider the unique circumstances that the Small LECs face, and require additional tailoring to ensure that the Small LECs can continue to provide service to rural Californians for many years to come. Appropriate exemptions must be considered to ensure that the G.O. 133 updates do not harm rural service providers in their efforts to meet the needs of the communities that they serve.

Executed at Oakland, California this 12th day of May, 2025.

Patrick M. Rosvall
BRB Law LLP
492 Ninth Street, Suite 220
Oakland, CA 94607
Phone: (510) 955-1081
E-mail: patrick@brblawgroup.com

By: /s/ Patrick M. Rosvall
Patrick M. Rosvall

Attorneys for the Small LECs

Appendix A

Findings of Fact

1. The Commission opened this proceeding to consider revisions to GO 133- D applicable to California telecommunication carriers.
2. The Commission's Communications Division brought forward numerous proposed changes to GO 133-D, issued a staff report containing significant hard data on outages, and issued a Staff Proposal delineating proposed changes.
3. Service restoration has declined for POTS and wireless voice services, as the number of outages have increased over time, as has outage duration, to such a degree that consumers now experience outages of well over 24, 48, 72 and 96 hours.
4. From 2018 through 2021 the URF ILECs (i.e., AT&T California and Frontier) collectively had the worst OOS performance among the three POTS carrier types that report OOS under GO 133-D, with 59.2 percent of customer outage tickets being resolved within 24 hours in 2018, 44.5 percent in 2019, 50.7 percent in 2020 and 52.5 percent in 2021. In particular, AT&T, the largest POTS provider in California, has seen a precipitous decline, only restoring 56 percent of outage tickets within 24 hours in 2018, and in 2023, restoring only 39 percent of outage tickets within 24 hours. [On the other hand, the GRC ILECs have generally met OOS minimum standards.](#)
5. NORS outage data indicates outages have increased. In 2018, carriers reported 2,030 outages, 1,524 were wireline and 506 were wireless. In 2019, the number of NORS outages increased to 4,028; 3,171 for wireline and 857 for wireless. Reported outages remained above 4,600 outages in 2020 and 2021.
6. In addition to an increase in the number of NORS outages, there was an **dramatic** increase in the number of outages of larger durations. Wireline carriers reported 432 outages in excess of 96 hours, with that total increasing to over 1,000 outages in both 2020 and 2021. In a similar manner, the number of wireless outages in excess of 96 hours increased from 31 in 2018 to 254 in 2021.
7. Cal OES began collecting community isolation outage data in August 2020. In 2021, POTS carriers reported 1,185 community isolation events. In 2022, POTS carriers

reported 1,759 community isolation events. In 2023, POTS carriers reported 2,407 community isolation events.

8. Californians rely on their POTS service to receive emergency notifications, contact family and friends, and reach first responders during emergencies.

9. In 2021, wireless carriers reported to Cal OES 3,315 community isolation events. In 2022, wireless carriers reported 3,319 community isolation events. In 2023, wireless carriers reported 5,865 community isolation events.

10. Californians rely on their wireless devices to receive emergency notifications, contact family and friends, and reach first responders during emergencies.

11. In 2021, VoIP carriers reported to Cal OES 9,000 community isolation events. In 2022, VoIP carriers reported 8,421 community isolation events. In 2023, VoIP carriers reported 7,181 community isolation events

12. The number of VoIP service outages is ~~excessively~~ high.

13. Californians rely on their VoIP service to receive emergency notifications, contact family and friends, and reach first responders during emergencies.

14. At least some of the reported outages are the result of circumstances beyond a carrier's control.

15. Overall, the experiences of Californians who participated in this proceeding by providing public comment, many of whom are customers of the various carriers, corroborate the hard data and other information in the record.

16. In Resolution T-17789 the Commission found that "AT&T... has flatly refused to invest sufficiently to meet the Commission's service quality standards."

17. Frontier states that its service quality improvements are the result of investment required as part of its Commission-approved acquisition of Verizon California, as well as its subsequent Commission-approved restructuring.

18. The Small LECs have generally high service quality, but for some other carriers, the current penalty mechanism in GO 133-D has not led to sufficient service quality improvements.

19. Pursuant to D.21-06-004, Small LECs participating in the California High Cost Fund A program are subject to operating and corporate expense caps.

~~20.—With respect to VoIP and wireless services, market forces, such as they exist, have not disciplined the service quality of VoIP and wireless carriers.~~

21. Reliable telephone service is essential for the public to access emergency services, maintain contact with family and friends, conduct business, and find employment.

~~22.—The service quality standards in GO 133-E are necessary to ensure safe and reliable telephone service for California residents and businesses.~~

~~23.—Penalties are necessary to deter carriers from violating the service quality standards set out in GO 133-E.~~

24. Automatic customer credits for failure to meet service quality standards may ~~are necessary to~~ incent carriers to adhere to the service quality standards set forth in GO 133-E. but are likely to hinder operations of small carriers facing high-cost operational dynamics, including the Small LECs.

25. Voice customers of all telephone corporations should receive the same standard of service.

~~26.—The Small LECs did not justify their proposed exemption from the service quality standards.~~

27. An effective date of July 1, 2026, will allow for the orderly and efficient implementation of the new penalty rules set forth in GO 133-E.

28. The administrative burden is minimal to send a copy of a report prepared for Cal OES to this Commission.

Conclusions of Law

1. The public interest requires that telephone corporations furnish safe and reliable service.

~~2.—The public interest requires that telephone corporations adhere to the service quality standards in GO 133-E, and that the Commission adopt the penalty mechanism to ensure that the telephone corporations comply.~~

3. The Commission has jurisdiction over facilities-based wireless providers, and authority to ensure the reliability of communications networks.
4. The Commission has jurisdiction over wireless telephone corporations and other communications utilities.
5. Pub. Util. Code Section 216 gives the Commission broad jurisdiction over public utilities, including telephone corporations as defined by Pub. Util. Code Section 234.
6. The Commission's "broad regulatory power over public utilities" derives from Article XII of the State Constitution, which establishes the Commission, and gives it wide-ranging regulatory authority, including but not limited to "the power to ... establish rules, hold various types of hearings, award reparation, and establish its own procedures."
7. Pub. Util. Code Section 216 definition of a "public utility" includes every "telephone corporation" where service is performed, or a commodity is delivered to the public or any portion thereof.
8. Pub. Util. Code Section 234 definition of a "telephone corporation" includes "every corporation or person owning, controlling, operating, or managing any telephone line for compensation in this state."
9. Pub. Util. Code Section 233 definition of a "telephone line" includes "all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, or controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires."
10. California's Constitution, Art. XII, Section 3, specifically extends the Commission's jurisdiction to companies engaged in "the transmission of telephone and telegraph messages."
11. The Commission's authority over public utilities includes oversight over both public utility services and facilities pursuant to California Constitution, Art. XII Sections 1-6 and Publ. Util. Code Section 701.

12. Pub. Util. Code Section 451 requires the Commission to ensure that utilities, including telephone corporations, “furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and *facilities* ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.” [emphasis added]
13. Pub. Util. Code Section 761 requires the Commission to ensure the reasonableness and sufficiency of *utility facilities* and may order “additions, extensions, repairs, or improvements to, or changes in” utility facilities that the Commission finds “ought reasonably to be made.” [emphasis added]
14. Pub. Util. Code Sections 233, 224.4 extends the Commission’s jurisdiction to the facilities wireless carriers rely upon to provision service.
15. The Federal Communications Act does not preempt the Commission from exercising public safety regulation of wireless facilities.
16. The 1993 amendments to the Federal Communications Act ushered in an era of shared jurisdiction.
17. In 1993, Congress passed the Omnibus Budget Reconciliation Act of 1993 (Budget Act), which amended Section 332(c)(3)(A) of the Communication Act Section 332) as follows: no State or local government shall have any authority to regulate the entries of or the rates charged by any commercial mobile service or any private mobile service, except this paragraph *shall not prohibit a State from regulating the other terms and conditions of commercial mobile service.* [emphasis added]
18. After Congress enacted the revised 47 U.S. Code Section 332, the Commission issued multiple decisions implementing the change in federal law and harmonizing those changes with existing Commission oversight of wireless telephony.
19. The Commission continues to exercise broad authority over wireless service
20. In providing a role for states, Congress explicitly declined to occupy the field.
21. Congress did not expressly or otherwise preempt state health and safety rules.

22. The scope of 47 U.S. Code Section 332's preemptive language is limited to regulations that directly and explicitly control rates, prevent market entry, or require a determination of the reasonableness of rates.

23. The Commission retains the unequivocal authority to regulate "other terms and conditions of service."

~~24. The proposed penalty mechanism in GO 133-E is consistent with statute and the Commission's standards for imposing penalties set forth in D.98-12-075 because it is based on the size of the carrier and duration of the violations.~~

25. ~~¶~~ For carriers that are not already subject to review through the rate case process, the public interest requires that telephone corporations subject to penalties be required to submit a Corrective Action Plan as detailed in this decision.

26. Non-GRC ILEC ~~C~~carriers incurring a fine under GO 133-E must show progress in the implementation of the Corrective Action Plan within 6 months or additional enforcement action shall be pursued.

27. It is reasonable to grant carriers time to comply with GO 133-E and delay its effective date until July 1, 2026.

28. The Communications Division Staff should continue to review and analyze carriers' service quality results and performance for the benefit of California consumers and to bring forward recommendations and proposals to this Commission.

29. The Commission has found that Interconnected Voice Over Internet Protocol service providers are Public Utilities Telephone Corporations.

30. The Commission has broad jurisdiction over public utilities, including public utility services and facilities of telephone corporations.

31. The Commission has found that ~~T~~telephone corporations as defined in Pub. Util. Code Section 234, providing service over telephone lines as defined in Pub. Util. Code Section 233, include companies providing service enabled by interconnected VoIP service as defined in Pub. Util. Section 239.

32. Voice customers of all telephone corporations should receive the same standard of service.

33. The Commission should establish a service quality framework for interconnected VoIP service.

34. The Communications Division is already responsible for: 1) reviewing quarterly service quality reports of each carrier's performance against GO 133 standards and posting the results on the Commission website; 2) reviewing Tier 2 Advice Letters from carriers in violation against GO 133 standards to ensure accuracy in fine calculation; disposing the Advice Letters via Commission Resolutions; and 4) reviewing Tier 2 Advice Letters from carriers who are required to file a Corrective Action Plan to ensure the plan can improve service quality and disposing the advice letters via Commission Resolutions.