



## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

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**Agenda ID #23771**  
**Ratesetting**

TO PARTIES OF RECORD IN Application 23-03-002:

This is the proposed decision of Administrative Law Judge Thomas J. Glegola. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's October 30, 2025, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC:kp7

Attachment

Decision **PROPOSED DECISION OF ALJ GLEGOLA** (Mailed 9/25/25)

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

Application of Pacific Bell Telephone  
Company d/b/a AT&T California (U  
1001 C) To Relinquish Its Eligible  
Telecommunications Carrier  
Designation.

Application 23-03-002

**DECISION DENYING IN PART PACIFIC BELL TELEPHONE COMPANY D/B/A  
AT&T CALIFORNIA'S APPLICATION TO RELINQUISH ELIGIBLE  
TELECOMMUNICATIONS CARRIER DESIGNATION**

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**DECISION DENYING IN PART PACIFIC BELL TELEPHONE COMPANY D/B/A  
AT&T CALIFORNIA'S APPLICATION TO RELINQUISH ELIGIBLE  
TELECOMMUNICATIONS CARRIER DESIGNATION**

**Summary**

This decision denies, in part, the Application of Pacific Bell Telephone Company, doing business as AT&T California (AT&T), to withdraw as an eligible telecommunications carrier (ETC) throughout its service territory, which is comprised of 616 wire centers in California.

47 United States Code (U.S.C.) Section 214(e)(4) requires state commissions to allow an ETC to relinquish its designation in any area served by more than one ETC, provided that "all customers" in the area served by the relinquishing carrier will continue to be served by another ETC. For an ETC to be a viable replacement for AT&T's service, it must possess the practical ability to serve all current residential customers in the relinquishment area at the individual customer level, not just offer a theoretical service connection. Since AT&T's customers currently receive their service indoors, AT&T's obligation was to prove that all customers in each wire center region where AT&T seeks to relinquish its ETC designation will continue to be served indoors.

Most AT&T wire center regions do not meet the condition for withdrawal in 47 U.S.C. Section 214(e)(4) that "all customers" served by the relinquishing carrier will continue to be served by another ETC. For wire center regions that may still meet the condition in statute, in Phase Two of this proceeding, the California Public Utilities Commission (Commission) will investigate AT&T wire center regions currently served by Cox California Telecom, LLC and Time Warner Cable Information Services in Los Angeles Orange, San Diego, San Bernardino, Santa Barbara, Riverside, Ventura, and Kern Counties, as well as

wire center regions currently served by ConnectTo Communications, Inc. (ConnectTo) and Consolidated Communications Enterprise Services, Inc.

AT&T provided only a subset of its customers that must continue to be served if it relinquished its ETC designation, consisting of ten to twenty percent of all its customers. Beyond its mapping exercise, AT&T did not offer credible information to support its claims that its proposed replacement ETCs are currently capable of serving all of AT&T's customers. Additionally, this decision finds the testimony of AT&T's expert witness, Dr. Mark Israel, not persuasive or credible, and affords it no weight.

Finally, the record contains possible evidence for concern that AT&T may have not complied with orders from the assigned Administrative Law Judge, and that AT&T may have misled or failed to provide full information to the Commission regarding the coverage capabilities of ConnectTo, among other items.

This proceeding remains open.

## **1. Background**

An eligible telecommunications carrier (ETC) is a telecommunications services provider created pursuant to 47 United States Code (U.S.C.) Section 214(e)(2) of the federal Communications Act of 1934, as amended by the 1996 Act.<sup>1</sup> 47 U.S.C. Section 254(e) provides that "only an eligible telecommunications carrier designated under 47 U.S.C. Section 214(e) shall be eligible to receive specific federal universal service support – federal Lifeline and high-cost support. ETCs are designated by state commissions or, where a state commission

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<sup>1</sup> 47 U.S.C. Section 214(e)(2)

lacks authority, by the Federal Communications Commission (FCC),<sup>2</sup> to provide basic services and to receive, in return, subsidy payments to help defray the cost of providing universal service.<sup>3</sup>

The California Public Utilities Commission (Commission) remains authorized to designate common carriers as ETCs. The Commission designated Pacific Bell Telephone Company, dba AT&T California (AT&T), as an ETC in December 1997, eligible for both federal Lifeline subsidies and federal high-cost support.<sup>4</sup> In this Application, AT&T requests permission to withdraw its ETC designation in California.

### **1.1. Procedural Background**

On March 3, 2023, AT&T filed an application to relinquish its eligible telecommunications carrier (ETC) designation (Application).<sup>5</sup>

On April 6, 2023, The Utility Reform Network (TURN) and the Center for Accessible Technology (CforAT) filed a joint protest of AT&T's Application.

On May 15, 2023, TURN and CforAT jointly filed a motion to dismiss the Application due to a lack of information in the record.

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<sup>2</sup> Pursuant to 47 U.S.C. Section 214(e)(6) the FCC has authority only when "a common carrier [is] providing telephone exchange service and the exchange access that is not subject to the jurisdiction of a state commission."

<sup>3</sup> 47 U.S.C. Section 214(e)(2) providing, in relevant part, that a state commission "shall upon its own motion or upon request designate a common carrier that meets [certain requirements] as an eligible telecommunications carrier for a service area designated by the State commission".

<sup>4</sup> Application of Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) To Relinquish Its Eligible Telecommunications Carrier Designation, filed March 3, 2023, at 1.

<sup>5</sup> Unless otherwise specified for the purposes of a citation, "Application" will refer to either AT&T's Application or its Revised Application.

A prehearing conference (PHC) was held on June 1, 2023, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary.

On July 21, 2023, the assigned Administrative Law Judge (ALJ) issued a ruling setting a status conference for August 2, 2023 (July 2023 Ruling). The July 2023 Ruling also ordered the Applicant to file, by August 25, 2023, updated versions of Attachment A to its Application, and Attachment C to its response to the Motion to Dismiss, filed on May 23, 2023. AT&T was ordered to remove the territories of ETCs that are wireless resellers unless AT&T could show the gaps in service availability for ETCs that are wireless resellers.<sup>6</sup>

On August 24, 2023, AT&T filed its response to the July 2023 Ruling.

On September 20, 2023, the assigned Commissioner issued a Scoping Memo and Ruling that set the schedule, determined that an evidentiary hearing was needed and categorized this proceeding as ratesetting.

On October 26, 2023, AT&T designated portions of prior filings in this proceeding to be its Opening Testimony, with Dr. Mark Israel as the sponsoring expert witness.

On November 30, 2023, TURN served intervenor testimony of its expert witness, Ms. Susan Baldwin.

On January 19, 2024, AT&T served rebuttal testimony of Dr. Israel.

On April 9, 2024, an evidentiary hearing occurred. A continuation of that evidentiary hearing took place on August 6, 2024.

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<sup>6</sup> ALJ Ruling Setting Status Conference and Requiring Additional Information, issued July 21, 2023, at 4.



On August 22, 2024, the Commission adopted D.24-08-046, extending the statutory deadline for this proceeding to March 3, 2025. The statutory deadline was subsequently extended by D.25-02-018 and D.25-06-058 and now stands at February 2, 2026.

On September 6, 2024, the following parties filed opening briefs: AT&T, CforAT, and TURN.

On September 27, 2024, the following parties filed reply briefs: AT&T, CforAT, and TURN.

On December 18, 2024, the assigned ALJ issued a ruling setting aside submission to re-open the record and admit two previously noticed documents. This ruling noticed developments at the FCC. On January 9, 2025, the following parties filed supplemental briefs in response to this ruling: AT&T, TURN and CforAT. On January 17, 2025, the following parties filed reply briefs: AT&T, TURN, and CforAT.

## **1.2. Submission Date**

This matter was submitted on September 5, 2025, upon the issuance of a ruling from the assigned ALJ.

## **2. Jurisdiction**

47 U.S.C. Section 214(e)(4) reads, in part, that:

“A State commission...shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier... Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall require the remaining eligible telecommunications carrier or carriers to ensure that all

customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier..."

Under 47 U.S.C. Section 214 (e)(3):

"If no common carrier will provide the services that are supported by Federal universal service support mechanisms... to an unserved community... a State commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof. Any carrier or carriers ordered to provide such service... shall be designated as an eligible telecommunications carrier for that community or portion thereof."

47 U.S.C. Section 153 (11) defines the term "common carrier" or "carrier" as "any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier."

47 U.S.C. Section 153 (51) defines the term "telecommunications carrier" as "any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226 of this title). A telecommunications carrier shall be treated as a common carrier under this chapter only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage."

Pursuant to the FCC's rules on Universal Service (FCC 97-157), this Commission adopted Resolutions T-16068 and T-17002, which established procedures and guidelines for carriers to request designation as eligible telecommunications carriers (ETCs). When it adopted Resolution T-16068, the Commission designated all Incumbent Local Exchange Carriers (ILEC) as ETCs. Most relevant to this discussion are the rules related to service obligations, contained in Resolution T-17002, Appendix A, Section II – Compliance with FCC 05-46, which are discussed below.

Resolution T-17002 requires an ETC applicant to demonstrate that it has the commitment and ability to provide supported services throughout the designated area by providing services to all requesting customers within its designated service area. Each applicant shall certify that it will:

1. provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and
2. provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by:
  - a. modifying or replacing the requesting customer's equipment;
  - b. deploying a roof-mounted antenna or other equipment;
  - c. adjusting the nearest cell tower;
  - d. adjusting network or customer facilities;
  - e. reselling services from another carrier's facilities to provide service; or
  - f. employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.

If the carrier determines that it cannot serve the customer using one or more of these methods, then the carrier must report the unfulfilled request within 30 days after making such determination.

An ETC is not required to serve throughout its entire service territory. On many occasions, the Commission has commented that a wireless ETC may not be able to serve all customers in the approved service territory.<sup>7</sup>

### **3. Issues Before the Commission**

The Assigned Commissioner's Scoping Memo and Ruling determined the issues in the scope of this proceeding are:

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<sup>7</sup> See, e.g., Resolution T-17437, which conditionally approved the ETC application of TAG Mobile, LLC at 15, Resolution T-17436, which conditionally approved the ETC application of Boomerang Wireless, LLC, at 15, Resolution T-17466, which conditionally approved the ETC application of Global Connection, Inc. of America, doing business as "Stand Up Wireless," at 14 and Resolution T-17448, which conditionally granted the ETC application of Air Voice Wireless, LLC at 17:

"Although wireless phone service offers great mobility for consumers, there are safety concerns related to wireless mobile phone service and E-911 and/or 911 connection limitations. Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own direct customers."

See also, Resolution T-17473, which conditionally approved the ETC application of Blue Jay Wireless, LLC at 11: "Blue Jay will require consumers to make an outbound call to activate their service." At 18:

"CD staff has safety concerns in two main areas of wireless phone service: the coverage of wireless mobile phone service and the ability of emergency first responders to find the location of the caller when using a mobile phone.

Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own customers. An incomplete emergency call can have devastating results."

1. What requirements apply to an ETC seeking to cease providing universal service pursuant to 47 U.S.C. Section 214(e)(4)? In addressing this issue, parties should also respond to the following sub-questions.
  - a. Should the phrase “all customers served by the relinquishing carrier,” as used in 47 U.S.C. Section 214(e)(4), include both residential customers and business customers? Why or why not? Are there other types of customers that should be included? Parties shall support their arguments with the appropriate legal authority.
  - b. How should the Commission determine whether an area is “served by the relinquishing carrier,” as that phrase is used in 47 U.S.C. Section 214(e)(4)?
  - c. What should the Commission do to ensure that all customers served by the relinquishing ETC will continue to be served, as 47 U.S.C. Section 214(e)(4) requires?
  - d. What evidence would a relinquishing ETC requesting to cease providing universal service need to submit to the Commission in order to demonstrate that the current service territory from which the ETC is relinquishing service is served by one or more remaining ETCs?
  - e. Is it reasonable to include in the Commission’s review of a relinquishing ETC’s Application any ETC with a conditional ETC approval, for purposes of demonstrating the existence of “remaining eligible telecommunications carriers?”
  - f. What evidence should an ETC requesting to cease providing universal service in an area submit to the Commission “to ensure that all customers served by the relinquishing carrier will continue to be served?” Explain why the evidence proposed satisfies the relevant statutory requirements.

2. What requirements should the Commission impose on “the remaining eligible telecommunications carrier,” to satisfy 47 U.S.C. Section 214(e)(4)?
3. In light of the issues raised in questions 1 and 2, does the AT&T California Application contain sufficient evidence and explanation to satisfy the requirements set forth in 47 U.S.C. Section 214(e)(4)? In addressing this issue, parties should also respond to the following sub-questions.
  - a. Is there more than one remaining ETC serving each area that the Applicant, AT&T California, seeks to relinquish? Do the maps and mapping analysis submitted by the applicant accurately represent service coverage by the other remaining ETCs in the specific geographic area from which the applicant seeks to relinquish its ETC designation?
  - b. Will all customers currently served by the relinquishing carrier continue to be served? Explain how this requirement will be satisfied.
  - c. If the remaining ETCs currently cannot serve all customers, would they be able to within one year of granting this Application? What should the Commission do to ensure this happens? Under which conditions should the Commission allow this to happen?
4. How would the approval of this Application impact public safety?
5. What are the impacts on environmental and social justice communities, including the extent to which granting this Application impacts the achievement of any of the nine goals of the Commission’s Environmental and Social Justice Action Plan?

#### **4. AT&T’s Application**

AT&T seeks to withdraw its ETC designation throughout its service territory in California, which is comprised of 616 wire centers. Granting this Application would eliminate AT&T’s regulatory designation as an ETC under

federal law but would not change AT&T's service requirements as a carrier of last resort (COLR),<sup>8</sup> including the requirement to provide basic service to any customer requesting such service within its service territory, as well as the requirement to participate in California LifeLine. AT&T claims the following ETCs can replace it in some or all of the areas served by its 616 wire centers:<sup>9</sup>

- Air Voice Wireless, LLC dba AirTalk Wireless;
- American Broadband and Telecommunication Company LLC dba Your Call Wireless;
- AmeriMex Communications Corp dba SafetyNet Wireless;
- Boomerang Wireless, LLC dba EnTouch Wireless;
- ConnectTo Communications, Inc.;
- Consolidated Communications Enterprise Services, Inc. fka SureWest TeleVideo dba SureWest Broadband;

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<sup>8</sup> The definition of a COLR is "A local exchange service provider that stands ready to provide basic service to any customer requesting such service within a specified area. To be a COLR, the provider must meet Commission-approved qualifications." A COLR is required to provide all elements of basic service, including:

- Offering customers the ability to place and receive voice-grade calls over all distances utilizing the public switched telephone network or successor network;
- Free access to 9-1-1/Enhanced (E) 9-1-1 service;
- Access to directory services;
- Billing Provisions;
- Access to 800 and 8YY Toll-Free Services;
- Access to Telephone Relay Service as provided for in Pub. Util. Code, § 2881;
- Free access to customer service for information about Universal Lifeline Telephone Service (ULTS) service activation, service termination, service repair and bill inquiries;
- One-time free blocking for information services, and one-time billing adjustments for charges incurred inadvertently, mistakenly, or without authorization; and
- Access to operator services.

<sup>9</sup> This list is from the Attachment A, which AT&T served on the Service List on September 6, 2024, accompanied with its Opening Briefs.

- Cox California Telecom, LLC dba Cox Communications and Cox Business Services;
- Global Connection Inc. of America dba Stand Up Wireless;
- IM Telecom, LLC dba Infiniti Mobile;
- i-wireless, LLC dba Access Wireless;
- TAG Mobile, LLC;
- Telrite Corp. dba Life Wireless;
- TruConnect Communications, Inc. dba Surelink Mobile; fka Telscape Communications, Inc.;
- Time Warner Cable Information Services dba Time Warner Cable;
- TracFone Wireless, Inc. dba SafeLink; Total Wireless, Straight Talk Wireless, Net10 Wireless, Page Plus, Simple Mobile, and Go Smart; and
- Assurance Wireless USA, L.P. dba Assurance Wireless; fka Virgin Mobile USA, L.P.

AT&T argues that, in their designated areas, the proposed replacement ETCs listed above are both legally obligated to serve AT&T's Lifeline customers, as well as currently capable of serving them.<sup>10</sup> AT&T's expert witness, Dr. Mark Israel, concludes that "there is at least one designated ETC remaining in each wire center (region)... within AT&T's service territory, and all AT&T Lifeline customers residing in those... (wire centers)... will continue to be served by at least one remaining ETC..."<sup>11</sup> and usually there are many ETCs.<sup>12</sup> Dr. Israel also concludes that "nearly all" wire center regions where AT&T seeks relief from serving are served by more than a dozen remaining ETCs and nearly all (99.6

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<sup>10</sup> AT&T, Opening Brief, at 1.

<sup>11</sup> Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, filed January 19, 2024, at 4. Also Exh. AT&T-10.

<sup>12</sup> *Id.*, at 9. Also Exh. AT&T-10.



percent) of AT&T's current Lifeline customers have at least five remaining ETCs serving their location.<sup>13</sup> Dr. Israel states he reached this conclusion by overlaying the maps of the geographical area of each AT&T wire center region's service territory with maps of the designated geographical areas of the potential replacement ETCs' service territories. Collectively, Dr. Israel asserts that 99.6 percent of census blocks containing 99.5 percent of the population within AT&T's service territory:

- have no current or recent AT&T Lifeline customers;
- are covered by one of the three facilities-based wireline ETCs (Cox, Time Warner Cable, or Consolidated Communications);<sup>14</sup> or
- are fully covered by one or more of the major mobile wireless ETCs, each of which has been operating for years and now serves more Lifeline customers in California than AT&T (and two of which are facilities-based providers with long-term commitments to provide Lifeline service).<sup>15</sup>

Dr. Israel notes that "a small number of areas and current customers located in those areas do not currently have access to a wireless service."<sup>16</sup>

## **5. Positions of Intervenor**

TURN and CforAT both ask the Commission to deny AT&T's Application.

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<sup>13</sup> *Id.*, at 5. Also Exh. AT&T-10.

<sup>14</sup> *See*, Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, filed January 19, 2024, at 14. Collectively, Dr. Israel claims these three ETCs serve 26.1 percent of census blocks within AT&T's service territory, and these census blocks account for 41.6 percent of the total population residing within AT&T's service territory and 36.5 percent of current AT&T Lifeline customers.

<sup>15</sup> Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, filed January 19, 2024, at 5-6. Also Exh. AT&T-10.

<sup>16</sup> *Id.*, at 10. Also, Exh. AT&T-10.

Relying on opinions expressed in ETC withdrawal proceedings before other state commissions, such as those of the Ohio Public Service Commission, TURN argues that a replacement ETC “must have a practical ability to serve current customers in the relinquishment area at the individual customer level.”<sup>17</sup> CforAT agrees with that assessment, asserting that prior decisions of this Commission demonstrate an understanding that a customer located within an ETC’s designated service area is not guaranteed to be able to obtain service from that ETC.<sup>18</sup> CforAT further contends that AT&T’s analysis consists of overlaying a map of AT&T’s service territory with maps of ETC providers’ designated service territory and does not contain any analysis of whether customers are actually able to obtain service.<sup>19</sup> In her testimony, TURN’s expert witness, Ms. Susan Baldwin, comments that AT&T’s representation of ETCs available in its service territory “reflect[s], at best, partial coverage” instead of full coverage.<sup>20</sup>

TURN argues that the plain reading of the statute governing ETC withdrawal requires the Commission to evaluate whether another ETC with the same designations as AT&T exists in an area where AT&T seeks to relinquish its ETC designation.<sup>21</sup> TURN refers to these types of ETCs as “Full ETCs,” meaning ETCs that receive both Lifeline and high-cost support. TURN asserts that this

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<sup>17</sup> Exh. TURN-05 (Ohio Decision) at 7.

<sup>18</sup> CforAT, Opening Briefs, at 16-18. CforAT cites to the Commission’s LifeLine rules, claiming the rules contemplate scenarios where both wireline and wireless providers may not be able to offer service to a particular location, while still noting that COLRs are required to offer service.

<sup>19</sup> *Id.*, at 19-20.

<sup>20</sup> Exh. TURN-03 at 23: 4-6.

<sup>21</sup> TURN, Opening Briefs, at 6-7.

Commission should find, as the Kansas Corporation Commission<sup>22</sup> did, when, relying on the FCC's 2016 Lifeline Order, that "type for type matching" of ETCs is implied in statute, asserting that Lifeline-Only ETCs are not required to "provide voice service to all reasonable requests for services" like Full ETCs must do.<sup>23</sup> TURN also contends that this Commission should find that Lifeline-Only ETCs do not meet the statutory definition of an ETC because the FCC forbore from statutory requirements to create Lifeline-Only ETCs. In 2005, the FCC forbore from requiring Lifeline-only ETCs to be facilities-based providers.<sup>24</sup> In 2013, the FCC forbore from the service area requirement.<sup>25</sup> TURN also asserts that the Kansas Corporation Commission found it had "no authority to 'ensure' that a Lifeline-Only ETC provides [universal] services."<sup>26</sup>

For the reasons above, TURN argues Lifeline-Only ETCs are not similarly situated to providers with Full ETC designations and therefore cannot be replacement ETCs for the purposes of reviewing AT&T's Application to relinquish its ETC designation.<sup>27</sup> TURN asserts this Commission could find so, similar to the Kansas State Corporation Commission, when it denied AT&T Kansas' relinquishment request where another Full ETC did not serve in AT&T Kansas' service territory. The Kansas Corporation Commission found that

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<sup>22</sup> The State Corporation Commission of the State of Kansas, Dkt. No. 17-SWBT-158-MIS, Order on AT&T's Request to Relinquish its Eligible Telecommunications Carrier (ETC) Designation (Mar. 14, 2019) (Exh. TURN-03 (Kansas decision)) at 15, para. 39.

<sup>23</sup> TURN, Opening Brief, at 18.

<sup>24</sup> *Id.*, at 13.

<sup>25</sup> *Id.*, at 13-14. The FCC granted limited forbearance from the requirement of 47 U.S.C. Section 214(e)(5) and Section 54.207(b) of the FCC's rules that the service area of a Lifeline-Only ETC conform to the service area of any rural telephone company serving the same area.

<sup>26</sup> *Id.*, at 18.

<sup>27</sup> *Id.*, at 14.

Lifeline-Only ETCs were not replacement ETCs for AT&T Kansas' relinquishment of its ETC designations because Kansas had "no authority to 'ensure' that a Lifeline-Only ETC provides [universal] services..." and "Lifeline-Only ETCs...need not provide voice service to all reasonable request for service like [F]ull ETCs must do."<sup>28</sup>

TURN states that no Full ETC serves an entire AT&T wire center region,<sup>29</sup> including cable companies Cox and Time Warner, which, as discussed further in Section 11, TURN claims are Full ETCs only in a small number of census blocks that do not appear to overlap completely with AT&T's service territory.<sup>30</sup>

Moreover, TURN asserts there are limitations associated with all wireless ETCs, whether reseller or facilities-based, that restrict their viability as replacement ETCs for AT&T's service. TURN identifies limitations such as inaccuracies with both this Commission's and the FCC's wireless maps (or, more precisely, the data submitted by broadband and voice providers that the maps depict is inaccurate), the difficulty in assessing whether customers in a wireless ETC's service territory receive reliable service inside their homes, and the fact that wireless providers generally are not required to offer Lifeline voice services. These limitations, discussed in more detail in Sections 7 and 10 of this decision, TURN argues, underscore that wireless ETCs are not complete substitutes for wireline service from AT&T.<sup>31</sup>

TURN also argues the Commission should find that pure resellers do not meet the statutory definition of ETC regardless of whether they are wireless or

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<sup>28</sup> *Id.*, at 18.

<sup>29</sup> *Id.*, at 2.

<sup>30</sup> *Id.*, at 30-31.

<sup>31</sup> *Id.*, at 40.

wireline providers.<sup>32</sup> TURN contends the Commission should not consider wireless reseller ETCs as replacement ETCs for AT&T's service because resellers do not own their own facilities, and wireless resellers are at higher risk of exiting the market.<sup>33</sup>

As discussed more in Section 7 of this decision, both CforAT and TURN express concerns about the credibility of the testimony of AT&T's expert witness, Dr. Israel.

## **6. Standard for Evaluating AT&T's Request**

The standard for reviewing AT&T's Application is set forth in a combination of the statutes, primarily 47 U.S.C. Section 214(e)(4), coupled with the FCC's interpretations of that statute that are binding on states, as well as this Commission's rules contained in Resolutions T-16068 and T-17002. Parties offer different interpretations of these authorities.

### **6.1. All Customers Must Continue to be Served**

As noted above, 47 U.S.C. Section 214(e)(4) requires that "all customers served by the relinquishing carrier" will continue to be served by a replacement ETC. Issue 1a of the Assigned Commissioner's Scoping Memo and Ruling asks parties to opine on whether the phrase "all customers served by the relinquishing carrier" includes both residential customers and business customers or other types of customers.<sup>34</sup>

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<sup>32</sup> See, TURN, Opening Brief, at 50-51. Using AT&T's Application, TURN identifies the following as wireless resellers: Air Voice Wireless, LLC; AmeriMex Communications Corp; American Broadband and Telecommunications Company; Boomerang Wireless; Global Connections, Inc. of America; IM Telecom; TAG Mobile, LLC; Telrite Corp.; Telscape; and i-wireless, LLC.

<sup>33</sup> TURN, Opening Brief, at 51.

<sup>34</sup> Assigned Commissioner's Scoping Memo and Ruling, issued September 20, 2023, at 2.

AT&T's analysis of the customers that must continue to receive service by replacement ETCs is AT&T's federal Lifeline customers.<sup>35</sup> AT&T contends the purpose of its ETC designation is so that it may receive reimbursement from the federal Lifeline Program for providing local voice telephone services to eligible low-income consumers at discounted prices. Prior to 2021, AT&T also received federal high-cost program support, but it no longer receives that support.<sup>36</sup> AT&T opines that the only customers potentially affected by this Application are its federal Lifeline customers.<sup>37</sup>

TURN disagrees with AT&T's interpretation of 47 U.S.C. Section 214(e)(4). To ensure no AT&T customer is harmed by AT&T's relinquishment of its ETC designations, TURN recommends the Commission define "customer" broadly to include residential, small business, commercial customers, schools, libraries, and health care providers and ensure that those customers will continue to receive services by another Full ETC.<sup>38</sup> TURN asserts that universal services are not limited to Lifeline, nor are they limited to a provider's current subscribers, claiming that 47 U.S.C. Section 254(c) defines "universal services" as "an evolving level of telecommunications services" and thus empowers the FCC to

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<sup>35</sup> See, Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, filed January 19, 2024, at footnote 103. Also, Exh. AT&T-10. The data Dr. Israel uses for his analysis does not distinguish between subscribers eligible for both California LifeLine and federal Lifeline discounts or only California LifeLine. However, it appears that AT&T tracks federal Lifeline and California LifeLine customers separately, as the testimony of Susan Baldwin separates AT&T's federal lifeline and California LifeLine customers. See, TURN Exh. 01 at 18.

<sup>36</sup> Application at 2.

<sup>37</sup> Pacific Bell Telephone Company D/B/A AT&T California's (U 1001 C) Response to the Administrative Law Judge's Ruling Requiring Additional Information, filed August 24, 2023, at 12.

<sup>38</sup> TURN, Opening Brief, at 24.

further define those services to include “schools, libraries, and health care providers.”<sup>39</sup>

AT&T responds that relinquishing its ETC designation does not entitle AT&T to discontinue any services and, moreover, the federal E-Rate program (for schools and libraries) and Rural Health Care Program (for rural health care providers) do not require service providers to be ETCs to participate.<sup>40</sup>

We disagree with both interpretations of 47 U.S.C. Section 214(e)(4), as AT&T’s is overly narrow, and TURN’s is too broad. The plain reading of the standard in 47 U.S.C. Section 214(e)(4) is that, in order for the Commission to permit AT&T to withdraw its ETC designation, “all customers” must be served by another ETC. The statute does not specify a subset of those customers. However, since an ETC designation is used to receive subsidies for serving residential customers, and not schools, libraries, and hospitals, it is logical to conclude that “all customers” for the purpose of this proceeding means “all residential customers.” AT&T California offers both plain old telephone service (POTS) and Voice over Internet Protocol (VoIP) services and may fulfill its ETC obligations through either service. Thus, the most consistent interpretation of 47 U.S.C. Section 214(e)(4) is the Commission must evaluate whether all AT&T California residential customers will remain served by another ETC. Because these customers currently receive their voice services at fixed locations, meaning they receive a connection inside their homes, the Applicant’s burden is to prove that these customers will continue to be served by AT&T’s proposed replacement ETCs with service that is available inside their homes.

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<sup>39</sup> *Id.*, at 23-24.

<sup>40</sup> AT&T, Reply Brief, at footnote 14.

## 6.2. Geographic Span

TURN argues that the Commission should review AT&T's Application on a wire center<sup>41</sup> by wire center basis.<sup>42</sup> TURN asserts 47 U.S.C Section 214(e)(5) defines the service area for ETC designations, specifically that "[t]he term 'service area' means a geographical area established by the state commission ... for the purposes of determining universal service obligations and support mechanisms" in the context of permitting an ETC "to relinquish it designation...."<sup>43</sup>

AT&T disagrees with TURN's views, noting that while AT&T applied for relinquishment on a wire center by wire center basis, it seeks relinquishment in all areas – no matter how granular – where there are alternative ETCs. AT&T states that the term "area" is not defined in 47 U.S.C. Section 214(e)(4), and area has not been defined by the FCC nor this Commission. Thus, AT&T opines that an area could be a census block or even a location.<sup>44</sup>

AT&T filed its Application on a wire center by wire center basis. Therefore, that is how the Commission will review the Application. AT&T's service territory is comprised of 616 wire center regions and over 350,000 census blocks. Thus, even *if* statute permits relinquishment at a more granular geographic span, doing so would create an unmanageable process, or a result that could lead to

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<sup>41</sup> AT&T's service territory is comprised of the local access telephone exchanges set forth in their Network and Exchange Services, Schedule CAL. P.U.C. No. A5. The Commission's COLR rules adopted in D. 96-10-066 use the term "geographic study area" to approximate a COLR's service territory. The FCC uses the term "study area" to approximate an ILEC's service territory. Both study areas and geographic study areas may not completely overlap. However, both are based roughly on a combination of contiguous census block groups.

<sup>42</sup> TURN, Opening Brief, at 21.

<sup>43</sup> *Id.*

<sup>44</sup> AT&T, Reply Brief, at 20-21.



the Application being granted in one census block, but not in an adjacent census block, despite both census blocks being served by the same facilities.

### **6.3. One-Year Build-Out Permitted**

As noted above, in Section 2 of this decision, 47 U.S.C. Section 214(e)(4) states, in relevant part, that:

“the State commission...shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier...”

Issue 3c of the Assigned Commissioner’s Scoping Memo and Ruling asks parties whether remaining ETCs in AT&T’s service territory are able to serve all customers within one year of granting this Application and what the Commission should do to ensure this happens.<sup>45</sup>

AT&T argues that, in their designated ETC service territories, all proposed replacement ETCs referenced in its Application are both legally obligated to serve AT&T’s Lifeline customers, as well as currently capable of serving them.<sup>46</sup>

CforAT disputes AT&T’s position, contending the last sentence of 47 U.S.C. Section 214(e)(4) requires the Commission to establish a deadline for replacement ETCs to finish purchase or construction of sufficient facilities to serve the customers of the relinquishing provider and that deadline may not be greater than one year.<sup>47</sup> CforAT then opines that logic dictates that if the Commission cannot ensure that the proposed replacement ETCs have purchased

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<sup>45</sup> Assigned Commissioner’s Scoping Memo and Ruling, issued September 20, 2023, at 4.

<sup>46</sup> AT&T, Opening Brief, at 1.

<sup>47</sup> CforAT, Opening Brief, at 15.

or constructed additional facilities within a year, it cannot approve the relinquishment.<sup>48</sup> CforAT claims that since AT&T serves about 100,000 Lifeline customers, purchasing or constructing additional facilities “will be no small feat.”<sup>49</sup> CforAT notes that in A.23-09-006, Blue Casa’s application to discontinue service and relinquish its ETC designation, AT&T estimated it would take it roughly ten weeks to enroll two thousand customers using its existing facilities.<sup>50</sup> CforAT posits that it “would be extremely difficult, if not impossible, for smaller ETCs, even collectively, to migrate nearly 100,000 former AT&T customers. In fact, if it took AT&T ten weeks to migrate 2,000 customers, it would take AT&T 500 weeks, or almost nine years, to migrate 100,000 customers.”<sup>51</sup>

As required by 47 U.S.C. Section 214(e)(4), the Commission will take into consideration whether the replacement ETCs proposed by AT&T are able to serve all customers within one year of granting AT&T’s Application. Beyond its mapping exercise and arguments interpreting Commission resolutions and AT&T’s interconnection agreement with one reseller, AT&T does not offer additional information to support its claims that its proposed replacement ETCs are currently capable of serving its customers.

#### **6.4. Like-for-Like Treatment Permitted**

TURN asserts<sup>52</sup> that the FCC interprets 47 U.S.C. Section 214(e) to “accommodate ETC designations specific to particular universal service mechanisms or programs... [and] likewise find(s) it reasonable to interpret

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<sup>48</sup> *Id.*, at 16.

<sup>49</sup> *Id.*, at 39.

<sup>50</sup> *Id.*, at 39-40.

<sup>51</sup> *Id.*, at 40.

<sup>52</sup> TURN, Opening Brief, at 16.

[S]ection 214(e)(4) as allowing ETC designations to be relinquished on a mechanism- or program-specific basis. Thus, a High-Cost/Lifeline ETC would, for instance, be free to seek to relinquish just its ETC designation for Lifeline purposes without relinquishing its designation for high-cost purposes.”<sup>53,54</sup>

AT&T disputes this argument, claiming that the FCC’s 2016 Lifeline Order does not comment on like-for-like relinquishments. Further, AT&T opines that the portion of the FCC Order TURN quotes concerns ILECs’ request to be relieved of their Lifeline voice service obligations while continuing to be eligible for high-cost support.:

“The ILECs sought a blanket ‘forbearance’ ruling from the FCC that would bypass the case-by-case relinquishment process that Congress established in Section 214(e)(4). The FCC refused, noting – as TURN quotes – that Section 214(e)(4) permits relinquishment ‘on a mechanism- or program-specific basis.’ But TURN conveniently omits the very next sentences, in which the FCC confirms that, ‘a High-Cost/Lifeline ETC would . . . be free to seek to relinquish just its ETC designation for Lifeline purposes without relinquishing its designation for high-cost purposes.’”<sup>55</sup>

It is not clear how or why AT&T interprets the addition of this sentence as undermining TURN’s argument and supporting AT&T’s claim, as it merely reinforces that the FCC distinguishes between Lifeline-Only ETCs and High-Cost ETCs. This also is not the lone instance of the FCC doing so. The FCC forbore

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<sup>53</sup> Federal Communications Commission, Third Report and Order, Further Report and Order, and Order on Reconsideration, *In the Matter of: Lifeline and Link Up Reform and Modernization* (WC Docket No. 11-42), *Telecommunications Carriers Eligible for Universal Service Support* (WC Docket No. 09-197), and *Connect America Fund* (WC Docket No. 10-90); FCC 16-38, released April 27, 2016, at ¶334.

<sup>54</sup> The FCC’s interpretation of Section 214(e) governs all application of that provision, whether by the Commission or by a state. *See*, FCC 16-38, footnote 843.

<sup>55</sup> AT&T, Reply Brief, at 13.

from the service area requirement for Lifeline-Only ETCs serving in the service area of rural telephone companies, including the following petitioners: Virgin Mobile USA, L.P. (Virgin Mobile); Cox, Time Warner; i-wireless, LLC; Q Link Wireless, LLC; and Global Connection Inc. of America (Global Connection).<sup>56</sup> More recently, the FCC forbore from requiring Full ETCs to offer Lifeline voice to new requesting customers in all counties in California except Trinity and Sierra Counties.<sup>57</sup>

While AT&T argues that TURN's opinion cannot be squared with the language of 47 U.S.C. Section 214(e)(4),<sup>58</sup> AT&T provides no instance where a court has overturned the FCC's interpretations. AT&T raises the example of the Indiana Utility Regulatory Commission, which it states declined to distinguish among types of ETCs when considering AT&T Indiana's relinquishment petition, finding that "[f]ederal law requires the Commission to permit AT&T Indiana to relinquish its ETC designation in an area if there is more than one other facilities or non-facilities based ETC designated to serve the area."<sup>59</sup> However, a decision by a state commission is not binding on this Commission.

AT&T also argues the opinion of the Kansas Corporation Commission contradicts statute, characterizing the decision as an outlier, and stating: "No other state commission has joined the ... (Kansas Corporation Commission)... in

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<sup>56</sup> *Lifeline and Link Up Reform and Modernization et al.*, WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45, Memorandum Opinion and Order, released April 15, 2013, FCC 13-44.

<sup>57</sup> Federal Communications Commission, Public Notice, *Wireline Competition Bureau Announces Counties Where Conditional Forbearance from the Lifeline Voice Obligation Applies*, WC Docket No. 11-42, DA 24-835, Released August 16, 2024. The counties in California where the forbearance applies are listed on pages 5-6.

<sup>58</sup> AT&T, Reply Brief, at 7.

<sup>59</sup> *Id.*, at 9.

its interpretation of Section 214(e)(4), nor has the FCC or any court. California should not follow Kansas down its erroneous path.”<sup>60</sup> AT&T does not provide whether a court overturned the Kansas decision, nor whether the FCC pre-empted or otherwise opined on it.

We do not need to decide which state commission accurately interpreted the FCC’s 2016 Lifeline Order. It appears the FCC has permitted both interpretations, if the opinions of the Indiana Utility Regulatory Commission and the Kansas Corporation Commission do indeed conflict. Those decisions may have been dictated by particulars in those cases that are not present in AT&T’s Application in California. For example, TURN notes that in Indiana, the enactment of House Bill (HB) 1112 is indicative of the light-touch approach Indiana took to regulation of telecommunications providers, including modifications to provider of last resort (the Indiana version of a COLR) that permitted withdrawals in areas served by two or more voice service providers using any technology, including wireless or VoIP.<sup>61</sup> California does not have a similar statute.

As previously noted, decisions of other state commissions are not binding on this Commission. The particulars of this case are likely different from Indiana, Kansas, or any of the other state commissions mentioned by parties. Other states may have rules in place that differ from those in Resolution T-17002. Applications in other states may have not been protested. California is a much larger state than most other states, both in terms of population size and geographic size. California has more varied terrain, a more dispersed population,

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<sup>60</sup> *Id.*, at 15.

<sup>61</sup> TURN Reply Brief, at 15.

as well as a very diverse one. Most relevant, however, is the fact in this case that the overwhelming majority of ETCs that AT&T relies on to support its Application are small, wireless, Lifeline-Only ETCs that are dependent on the infrastructure of other carriers. It is logical to presume it will take smaller, non-facilities-based providers significantly more time to migrate customers.

Given that many of AT&T's proposed replacement ETCs are not similarly situated to AT&T, we find it reasonable, in general, to interpret 47 U.S.C. Section 214(e)(4), akin to how the FCC does, as allowing ETC designations to be relinquished on a mechanism- or program-specific basis.

#### **6.5. AT&T is a Full ETC**

AT&T has Full ETC status, meaning AT&T was designated an ETC for both federal High-Cost and Lifeline support. AT&T did not apply previously to relinquish its status as a High-Cost ETC.

#### **6.6. ETCs Not Required to Serve Everywhere in Service Territory**

Despite the repeated contentions of AT&T, its attorneys, and its expert witness,<sup>62</sup> an ETC is not required to serve everywhere in its approved service territory, or that requirement is not the absolute AT&T claims it is.

As discussed above, Resolution T-17002 provides that an ETC must provide service on a timely basis to requesting customers within the ETC's service area only where the ETC's network already passes the potential customer's premises, and, if the potential customer is located outside its existing network coverage, if service can be provided at reasonable cost.<sup>63</sup> Where that is

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<sup>62</sup> Dr. Israel stated an ETC is "required to do what it has to do to provide service." Report's Transcript, Evidentiary Hearing, April 9, 2024, (April 9 Evidentiary Hearing Transcript) at 922: 3-12.

<sup>63</sup> FCC 05-46, ¶¶ 21, 22; Resolution T-17002, Appendix A, Section II.

not established, the ETC is not required to provide service. This is in contrast to the Commission's COLR rules, where a COLR's service requirement is absolute throughout a COLR's service territory.

Next, as noted above, 47 U.S.C. Section 214 (e)(3) allows the Commission to require a carrier to serve as an ETC if there is an unserved community. That is not the situation here. In the case of wireless ETCs, the preemption from regulating market entry for wireless carriers contained in 47 U.S.C. Section 332 (c)(3) also appears to prevent the Commission from compelling wireless ETCs to replace AT&T.<sup>64</sup>

Furthermore, in its 2016 Lifeline Order, the FCC chose to forbear from requiring Full ETCs to offer Lifeline voice service where the following conditions are met:

- a. 51 percent of Lifeline subscribers in a county are obtaining Lifeline broadband Internet access service [BIAS];
- b. there are at least three other providers of Lifeline BIAS that each serve at least five percent of the Lifeline broadband subscribers in that county; and
- c. the ETC does not actually receive federal high-cost universal service support.<sup>65</sup>

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<sup>64</sup> 47 U.S.C. Section 332 (c)(3) (A) reads, in part: "Notwithstanding sections 152(b) and 221(b) of this title, no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services."

<sup>65</sup> Federal Communications Commission, Third Report and Order, Further Report and Order, and Order on Reconsideration, *In the Matter of: Lifeline and Link Up Reform and Modernization* (WC Docket No. 11-42), *Telecommunications Carriers Eligible for Universal Service Support* (WC Docket No. 09-197), and *Connect America Fund* (WC Docket No. 10-90); FCC 16-38, released April 27, 2016, at ¶354.

On August 16, 2024, the FCC released its latest list of counties where its conditional forbearance applies. The counties in California where the FCC did not exercise forbearance are Trinity and Sierra Counties.<sup>66</sup> The FCC's interpretation of 47 U.S.C. Section 214(e) governs all applications of that provision and is binding on this Commission.<sup>67</sup>

#### **6.7. Standard of Review for AT&T's Application**

In order for an ETC to be a viable replacement for AT&T's service, it must possess the practical ability to serve all current residential customers in the relinquishment area at the individual customer level, even if those customers will not be losing their service as a result of this Commission granting this Application. This is particularly important and relevant because customers of AT&T are served by AT&T California, a COLR, at their homes, through a wireline connection (POTS or VoIP), not a theoretical connection. AT&T's relinquishment request will be granted for each wire center region that meets this standard. As the Applicant, AT&T bears the burden of proving by a preponderance of evidence that the standard has been met.

#### **7. Testimony of AT&T's Expert Witness is Not Credible**

The conclusions reached by Dr. Israel, AT&T's expert witness, summarized above in Section 4 of this decision, essentially rely on a mapping exercise involving points and polygons, such that if a "point," in this case, an

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<sup>66</sup> Federal Communications Commission, Public Notice, *Wireline Competition Bureau Announces Counties Where Conditional Forbearance from the Lifeline Voice Obligation Applies*, WC Docket No. 11-42, DA 24-835, Released August 16, 2024. The counties in California where the forbearance applies are listed on pages 5-6.

<sup>67</sup> Federal Communications Commission, Third Report and Order, Further Report and Order, and Order on Reconsideration, *In the Matter of: Lifeline and Link Up Reform and Modernization* (WC Docket No. 11-42), *Telecommunications Carriers Eligible for Universal Service Support* (WC Docket No. 09-197), and *Connect America Fund* (WC Docket No. 10-90); FCC 16-38, released April 27, 2016, at Footnote 843.



AT&T Lifeline customer, is overlapped by a “polygon,” in this case, the purported coverage area of a proposed replacement ETC,<sup>68</sup> the requirement in 47 U.S.C. Section 214(e)(4) is met. In essence, AT&T and Dr. Israel conclude that a customer is “served” by a replacement ETC if they live within the service area of that designated ETC, without additional confirmation or taking other factors into consideration.

The primary sources used by Dr. Israel when examining the service coverage territories of the alternate ETCs are the resolutions that approved their ETC designation, advice letters from those ETCs, and the Commission’s Broadband Availability Map,<sup>69,70</sup> as well as similar maps created by the FCC.<sup>71</sup> Where the underlying map of an ETC’s designated service area is not already at the 2020 census block level (e.g., mobile wireless maps), Dr. Israel states that he overlaid the designated ETC service area with the 2020 census block boundaries and classified a census block to be a part of that ETC’s designated area if the overlap is at least 50 percent, claiming the 50 percent overlap assumption is commonly used by the FCC.<sup>72,73</sup> In addition, Dr. Israel states that he considered an ETC to be present in a wire center region if the census blocks

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<sup>68</sup> In the case of wireline service, the polygon is a combination of census blocks, and in the case of wireless service, the polygon is a polygon.

<sup>69</sup> April 9 Evidentiary Hearing Transcript at 866: 7-13

<sup>70</sup> The Commission collects broadband availability and subscriber data from internet service providers on an annual basis. That data is displayed on the California Interactive Broadband Map.

<sup>71</sup> April 9 Evidentiary Hearing Transcript at 929: 7-8.

<sup>72</sup> Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, filed January 19, 2024, at 27.

<sup>73</sup> AT&T claims, in its Opening Brief, at 23 that Dr. Israel classified a census block to be covered by a mobile wireless carrier if the ETC’s mapped service territory covers at least 90 percent of the area of the census block.

where that ETC is present account for at least 50 percent of the population residing in all census blocks within that wire center region.<sup>74</sup>

Regardless of whether the documents that comprise AT&T's Opening Testimony and Rebuttal Testimony were drafted by Dr. Israel personally,<sup>75</sup> parties stipulated that Dr. Israel has personal knowledge of the information therein including, but not limited to, the underlying assumptions and methodologies used and that he declares under penalty of perjury that the information therein is true and accurate to the best of his knowledge.<sup>76</sup>

Relying on California Evidence Code Section 780,<sup>77</sup> CforAT contends that the Commission should afford Dr. Israel's testimony little or no weight, arguing

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<sup>74</sup> Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, filed January 19, 2024, at 43.

<sup>75</sup> April 9 Evidentiary Hearing Transcript at 813:20 – 815:19. Before adopting Exhibits AT&T-01 through AT&T-28, Dr. Israel testified that Exhibit AT&T-03 was prepared by counsel for AT&T. Additionally, Exhibits AT&T-04 and AT&T-15 include maps that were developed and drafted entirely by him and his team, but counsel for AT&T drafted short, one-page descriptions that he reviewed.

<sup>76</sup> Joint Statement of Stipulations and Material Disputed Facts, filed March 18, 2023, Stipulations 7 and 8.

<sup>77</sup> California Evidence Code Section 780 states:

Except as otherwise provided by statute, the court or jury may consider in determining the credibility of a witness any matter that has any tendency in reason to prove or disprove the truthfulness of his testimony at the hearing, including but not limited to any of the following:

- (a) His demeanor while testifying and the manner in which he testifies.
- (b) The character of his testimony.
- (c) The extent of his capacity to perceive, to recollect, or to communicate any matter about which he testifies.
- (d) The extent of his opportunity to perceive any matter about which he testifies.
- (e) His character for honesty or veracity or their opposite
- (f) The existence or nonexistence of a bias, interest, or other motive.
- (g) A statement previously made by him that is consistent with his testimony at the hearing.

*Footnote continued on next page.*

his testimony bears the indicia of unreliability and improper bias.<sup>78</sup> For example, CforAT states that Dr. Israel's analysis of ConnectTo concludes that it is "economically appropriate" to include ConnectTo as a replacement ETC throughout AT&T's service territory,<sup>79</sup> even though Dr. Israel's analysis of ConnectTo includes no discussion of economics.<sup>80</sup> CforAT also observes that Dr. Israel's Rebuttal Testimony notes that AT&T designated certain documents as Dr. Israel's Opening Testimony, rather than Dr. Israel himself sponsoring those documents as his testimony.<sup>81</sup> CforAT argues that Dr. Israel's opinions were based on false assumptions, including his adoption of AT&T's description of what it means for a customer to be "served," as well as his assertion that a conditional ETC designation was the equivalent of an unconditional ETC designation.<sup>82</sup>

CforAT notes that at least one other court found Dr. Israel's testimony to not be credible, citing the United States District Court for the District of Massachusetts in *U.S. v. JetBlue Airways Corp. and Spirit Airlines, Inc.*<sup>83</sup> In *JetBlue Airways* the District Court found that "Dr. Israel ... demonstrated a

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(h) A statement made by him that is inconsistent with any part of his testimony at the hearing.

(i) The existence or nonexistence of any fact testified to by him.

(j) His attitude toward the action in which he testifies or toward the giving of testimony.

(k) His admission of untruthfulness.

<sup>78</sup> CforAT, Opening Briefs, at 29-

<sup>79</sup> Exh. AT&T-12 at B-11.

<sup>80</sup> CforAT, Opening Brief, at 30.

<sup>81</sup> *Id.*, at 34.

<sup>82</sup> *Id.*, at 35.

<sup>83</sup> *U.S. v. JetBlue Airways Corp. and Spirit Airlines, Inc.*, Civil No. 21-11558-LTS (May 19, 2023), app. Pending (*JetBlue Airways*).

misunderstanding and misapplication of antitrust concepts, rendered opinions based on false assumptions, and failed to account for the circumstances presented by [an agreement between JetBlue and Spirit].”<sup>84</sup> The District Court also noted that Dr. Israel’s “projections [were] contaminated by his reliance on scenarios designed and selected by the defendants”<sup>85</sup> and stated the following:

To evaluate the defendants’ deal, Dr. Israel assessed the world with and without the NEA<sup>86</sup> by relying entirely upon two scenarios the defendants chose as the appropriate comparators. These scenarios were not defined by Dr. Israel based on economic principles; they were devised by the defendants, the Court finds, with an eye toward bolstering their case for the NEA. They were then ‘explained to’ Dr. Israel, who accepted the defendants’ reasoning and overlooked facts that show he was not comparing apples to apples. The Court cannot, and does not, simply defer to the defendants’ choice of counterfactuals... For these reasons and having considered his demeanor and evaluated the basis for all of his testimony, the Court finds Dr. Israel’s opinions rendered in this case are entitled to no weight.”<sup>87</sup>

CforAT asserts that Dr. Israel’s testimony in this proceeding displays similar flaws to those observed in the *JetBlue Airways* case,<sup>88</sup> noting that some material adopted by Dr. Israel as his testimony consists of documents previously filed by counsel for AT&T.<sup>89</sup> Additionally, CforAT contends that Dr. Israel’s

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<sup>84</sup> CforAT, Opening Brief, at 33. CforAT does not cite this specific quote.

<sup>85</sup> CforAT, Opening Brief, at 33. *JetBlue Airways* at p. 51.

<sup>86</sup> See, CforAT, Opening Brief, at footnote 133. The Northeast Alliance, or NEA, was a partnership between American Airlines and JetBlue in which the two carriers essentially agreed to operate as one airline for most of their flights in and out of Boston.

<sup>87</sup> CforAT, Opening Brief, at 33. *JetBlue Airways* at 52.

<sup>88</sup> CforAT, Opening Brief, at 34.

<sup>89</sup> *Id.*, at 34. Exhibit AT&T-03 was prepared by counsel for AT&T.

analysis did not differ meaningfully from that submitted in AT&T's Initial Application,<sup>90</sup> that his Rebuttal Testimony is a repetition of the analysis contained in his designated Opening Testimony, and that in instances when Dr. Israel addressed intervenors' concerns, he did so in a manner that was perfunctory and conclusory.<sup>91</sup>

TURN agrees with CforAT's assessment that Dr. Israel's opinion and claims appear to be made as an advocate for AT&T's arguments, including his reliance on an inaccurate legal standard. TURN asserts this behavior calls into question his credibility as a testifying witness.<sup>92</sup> Further, TURN contends that Dr. Israel's legal conclusions do not contemplate, much less adequately respond to: 1) other state commission decisions raised during cross-examination that contradict his conclusions; 2) information that undermines his assumptions; and 3) other circumstances that he failed to consider.<sup>93</sup>

AT&T opines that Dr. Israel's analysis was not based on a misunderstanding of the principles and requirements of AT&T's ETC obligations, arguing that there is no statutory basis to distinguish between

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<sup>90</sup> *Id.*

<sup>91</sup> *Id.*, at 35.

<sup>92</sup> TURN, Reply Brief, at 4.

<sup>93</sup> TURN, Reply Brief, at 4. At footnote 23, TURN cites several examples in the Transcript of the April 9 Evidentiary Hearing. At 821: 2-7 (Salas: "Does learning that the Kansas Commission rejected the argument that the only test for ETC relinquishment is whether another ETC serves the relinquishment area change your understanding of the legal standard?" Israel: "No, not by itself"); At 882: 4-8 (Salas: Does learning that the Kansas Commission distinguished between types of ETCs change your understanding of the legal standard?" Israel: "Again, not my understanding of the legal standard, and, certainly, none of my opinions here"); At 822: 14-20 (learning that other state commissions' interpretations of 47 U.S.C. 214 contradicted Dr. Israel's understanding of the legal standard did not change his understanding of the legal standard or his opinions); At 823:8-11 (same); At 824: 20-24 (same); At 826: 12-16 (same); At 828: 5-14 (same); At 829: 21-24 (same).

different types of ETC designations. Moreover, even if the Commission disagrees with Dr. Israel and AT&T on what ETCs meet the withdrawal standard, AT&T asserts that disagreement does not follow that AT&T's Application should be denied. AT&T claims the Commission can use Dr. Israel's analysis to evaluate AT&T's Application based on whichever ETCs it deems adequate alternatives, using the spreadsheet attached as Exhibit A to AT&T's Opening Brief, which AT&T states allows the Commission to see exactly which alternative ETCs serve the same areas of each AT&T wire center. Further, AT&T states that using Dr. Israel's analysis, the Commission can evaluate the impact of using any definition of replacement ETC it chooses and a broad range of geographic areas, ranging from AT&T's entire service area down to particular locations.<sup>94</sup>

During the examination of AT&T's expert witness at the April 9, 2024 Evidentiary Hearing, it became clear that the limited scope of Dr. Israel's work restricts the usefulness of his testimony, since he confined his focus solely to AT&T's Lifeline customers, and ignored the remaining 80-90 percent of AT&T's customers. Further, when questioned about the capabilities of various proposed alternative ETCs to serve in the areas claimed, Dr. Israel's default response was to rely on the legal interpretation that an ETC is required to provide service to all locations in the ETC's approved service area,<sup>95</sup> which, as discussed in more detail in Section 6.6 of this decision, is not accurate. The witness' reliance on this incorrect presumption leads to him overstating the ability of any potential ETC to replace AT&T, wireless or wireline.

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<sup>94</sup> AT&T, Reply Brief, at 42-43.

<sup>95</sup> April 9 Evidentiary Hearing Transcript at 828: 15-17; 850: 9-12, 15-17; 852: 1-5; 863: 5-6; 890: 11-13; 922: 11-12; 923: 6-7. This also has been the interpretation offered by AT&T's attorneys repeatedly (e.g., at December 2023 status conference. *See*, transcript at 59: 7-13)

Dr. Israel applies this incorrect legal assumption to the coverage of ConnectTo, the lone wireline replacement AT&T claims can offer service throughout its service territory, testifying that ConnectTo serves everywhere that AT&T does,<sup>96</sup> describing ConnectTo as a “backstop” that “pick(s) up everything in case there are little gaps.”<sup>97</sup> As discussed in more detail in Section 10 of this decision, the record contradicts Dr. Israel’s claims regarding ConnectTo, including in TURN Exhibit 16 and 16-C. Additionally, the letter from Araksiya Nadjarian, Chief Executive Officer of ConnectTo, which was served on the Service List of this proceeding on March 29, 2024 also contradicts Dr. Israel’s claims. Both of these documents indicate that the service territory of ConnectTo overlaps with that of roughly ten AT&T wire centers, not the total 616 wire centers in AT&T’s service territory. Dr. Israel testified that he did not prepare AT&T’s January 2024 data request response entered into the record as TURN Exhibit 16 and 16-C, nor did the information contained in that response form the basis of any of his opinions, though he thought he had reviewed the data request.<sup>98</sup>

Moreover, during questioning, the witness testified that he did no other analysis to confirm the purported ability of ConnectTo to serve throughout the entirety of AT&T’s California service territory. Dr. Israel was not aware of ConnectTo’s finances, the location or number of technicians employed to work in any county in California, or other employees, and performed no additional analysis to support his assertion.<sup>99</sup> Dr. Israel also offered no information to

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<sup>96</sup> April 9 Evidentiary Hearing Transcript at 860: 20-22

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*, at 900: 12-21

<sup>99</sup> *Id.*, at 940: 10 – 941: 20

suggest that ConnectTo could offer service within one year. Thus, CforAT's view that Dr. Israel concludes it is "economically appropriate" to include ConnectTo as an alternative ETC, but did no economic analysis to substantiate this claim, is on point.

Dr. Israel's reliance on inaccurate legal analysis extends beyond just the issue over whether ConnectTo can serve where he and AT&T claim it can, as it was used as a "cure all" for all ETC coverage deficiencies, including for wireless ETCs. As discussed more in Section 11 of this decision, Dr. Israel was not aware of the assigned ALJ's July Ruling ordering AT&T to update its analysis regarding wireless ETCs. However, when asked to explain how his analysis complied with that Ruling, he testified:

"What's made me comfortable with the analysis is the combination of the various steps put into the maps, combined with the fact that if there is some gap that arises within the map, due to some propagation-type issue, as I understand the designations, they still say that ETC is required to do what it has to do to provide service."<sup>100</sup>

As noted above, the witness's primary sources when examining the service coverage territories of the alternate ETCs are the resolutions that approved their ETC designation, which contain maps, advice letters from those ETCs with maps revising those service territories, and Commission's Broadband Availability Maps.<sup>101</sup> These maps overstate provider coverage, especially with regard to mobile.

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<sup>100</sup> *Id.*, at 922: 6-12

<sup>101</sup> *Id.*, at 866: 7-13



The Commission has spoken to the limits of the provider deployment/availability data used to create the California Broadband Map, as well as other maps, due to inaccuracy and inherent overstatement contained in the data.

In the Order Instituting Investigation into the State of Competition in the California Communications Market (Investigation 15-11-007), which the Commission concluded in December 2016, with the adoption of Decision (D.) 16-12-025, the Commission stated the following regarding the overstatement of broadband and voice deployment/availability data:

“We have collected availability information, for both voice and data services, at the census block level. A carrier will report that it provides service to a certain census block even if it offers service to only one household in that census block. Unfortunately, although we recognize that this is a problem, particularly in more remote areas (rural census blocks tend to be much larger than urban census blocks), we lack subscription data sufficiently granular to reliably estimate the size of this effect. Our analysis partially compensates for this effect by only recognizing a service’s availability in a census block if that service has at least one actual subscriber in the census block. We recognize that availability will remain overstated in spite of this compensation.”<sup>102</sup>

In December 2018, when the Commission revised rules for the California Advanced Services Fund (CASF) Infrastructure Account, changes included how the Commission would validate broadband deployment/availability data to improve the accuracy of service depiction on the map. In that regard, the Commission stated:

“The Commission must balance timely processing of applications, including challenges to those applications, with accuracy of the data used to determine grant eligibility. It is clear that, in certain instances, the deployment data submitted

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<sup>102</sup> D.16-12-025 at 53.

by providers overstates broadband availability and that the submitted data is inaccurate in other ways, including the miscoding identified by the CCBC.<sup>103</sup> We note that the FCC and United States Department of Agriculture (USDA) are also wrestling with this issue. Both agencies award public funds supporting broadband deployment. The trend of providers consistently failing to correct these errors has led to significant expenditure of staff effort to create a more accurate depiction of broadband availability in the State, as well as time spent reviewing applications and challenges to the applications. This in turn has led to significant frustration and confusion in communities hoping to improve broadband service using a CASF grant.

While it is a fair point that subscriber data does not necessarily represent all areas where broadband Internet service has been deployed or where service is available, providers both large and small need to submit more accurate data in order for the Commission to be more comfortable solely using deployment data. For the time being we believe the most responsible approach to ensure that broadband truly is available in a census block is to validate deployment data using the presence of one subscriber in that census block. Concerns that using subscriber data to validate the level of broadband deployment may lead to overbuilding of networks may be addressed as part of the challenge process.”<sup>104</sup>

Prior to adopting D.18-12-018, the Commission considered mobile broadband coverage when determining whether an area was eligible for CASF funding. Grant applicants and proposed project proponents had the opportunity to rebut an eligibility determination that appeared on the California Broadband Map. In several instances, the Commission awarded a CASF Infrastructure

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<sup>103</sup> See, D.18-12-018 at 11. The Central Coast Broadband Consortium cited inaccuracies in AT&T's deployment data, most likely due to miscoding in certain census blocks.

<sup>104</sup> D.18-12-018, *Decision Implementing the California Advanced Services Fund Infrastructure Account Revised Rules* (R.12-10-012), issued December 20, 2018, at 11-12.

Account grant, in spite of a proposed project area appearing to be served, because a provider submitted data indicating as such. This includes upholding challenges to mobile broadband service. For example, when approving Race Communication's Gigafy Backus Project, the Commission stated:

"[T]he Commission's broadband availability map indicates that the project areas... and surrounding areas are "served" by mobile providers... Verizon Wireless and AT&T Mobility. Subsequently, CD required tests be conducted in the project area by Race. Tests were conducted for Verizon Wireless on March 5, 2015, and for AT&T Mobility on May 6, 2015. These test results showed the project is actually unserved by mobile despite that indicated on the published availability map."<sup>105</sup>

When approving the Connect Anza Project, the Commission stated:

"With regard to mobile service, however, the California Interactive Broadband Availability Map indicates that 55% of the proposed project area may be served by Verizon and/or AT&T Mobility wireless service. The applicant disputed that the area is served by providing mobile field tests using the CalSPEED app.

The applicant provided 43 CalSPEED tests conducted on July 3, 2015 (*see* Appendix D for a list of speed test results). All of the test results showed unserved or underserved speeds within the project area. This finding, when combined with the fact that there were no challenges to the project, led staff to recommend that the area be considered underserved by mobile broadband."<sup>106</sup>

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<sup>105</sup> Resolution T- 17480, Approval of Funding for the Grant Application of Race Telecommunications Inc. (U-7060-C), from the California Advanced Services Fund (CASF) in the Amount of \$2,239,991 for the Gigafy Backus Unserved Broadband Project, issued August 19, 2015, at 5-6.

<sup>106</sup> Resolution T-17503: Approval of funding for the grant application of Anza Electric Cooperative, Inc. from the California Advanced Services Fund (CASF) in the amount of \$2,662,450 for the Connect Anza Project, issued, December 21, 2015, at 4-5.

When approving Race's Gigafy Occidental Project, the Commission stated:

"The most recent California Interactive Broadband Availability map shows the project area having mobile broadband available at underserved speeds from AT&T, Sprint, Verizon Wireless, and T-Mobile. The map was developed using regional data from the CPUC's statewide mobile field tests. However, these results are not representative of the project area because the speed test locations are separated from the project area by up to ten miles over challenging terrain. Only one of those speed tests was conducted within the project area itself, and that test shows the location is unserved by mobile. Additionally, there were 95 speed tests conducted within the project area by the North Bay North Coast Broadband Consortium and via crowdsourcing using the Calspeed Mobile app. Ninety-two percent of those test results indicate that the proposed project area is unserved by mobile. Therefore, CD concluded that the project area is overall unserved by mobile broadband."<sup>107</sup> (*sic*)

The fact that Dr. Israel's analysis solely relies on the accuracy of the data used to create the maps that are the sources for his analysis, and that he did not conduct additional verification, came up in several instances. For example, when asked how his analysis accounted for geographic or structural obstacles that impede wireless signal propagation, Dr. Israel testified that he relied on the Commission maps to address that issue.<sup>108</sup> When asked if his analysis accounted for terrain and dense foliage, Dr. Israel testified that his analysis did "in so far as the maps do."<sup>109</sup>

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<sup>107</sup> Resolution T-17524: Approval of Funding for the Grant Application of Race Telecommunications, Inc. (U-7060C), from the California Advanced Services Fund (CASF) in the Amount of \$7,687,016 for the Gigafy Occidental project, issued August 25, 2016, at 5.

<sup>108</sup> April 9 Evidentiary Hearing Transcript at 916: 19 – 917: 11.

<sup>109</sup> *Id.*, at 917: 23-25 and 918: 22-24.

The witness testified he “studied in detail” the Commission maps to understand the methods used “to ensure coverage.”<sup>110,111</sup> Despite this, Dr. Israel misstated both the purpose of the Commission’s maps as it related to wireless coverage, as well as the validation process used by the Commission to improve the accuracy of the raw data various wireless providers submit to the Commission on an annual basis.

When asked whether the Commission uses the California Broadband Map to determine whether to grant a wireless provider ETC status, Dr. Israel responded that he did not know.<sup>112</sup> When asked if the Commission maps were used to display the territories of wireless ETCs, Dr. Israel responded that the mobile maps are all Commission maps and the Commission “uses them to make broadband funding allocations.”<sup>113</sup>

The purpose of the California Broadband Map is not to evaluate ETC coverage. Moreover, the Commission does not consider mobile coverage when awarding broadband grants. Since the Commission adopted revised rules for the CASF Infrastructure Grant Account in D.18-12-018 in December 2018, the CASF Infrastructure Grant Account considers the broadband service availability from fixed broadband service providers, not mobile broadband providers. In a similar manner, the Federal Funding Account rules, which the Commission adopted in April 2022 in D.22-04-055, do not consider mobile broadband service when awarding grants, and the rules for the Commission’s Broadband Equity, Access,

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<sup>110</sup> *Id.*, at 834: 7-9

<sup>111</sup> *Id.*, at 862: 20-24

<sup>112</sup> *Id.*, at 928: 11-15.

<sup>113</sup> *Id.*, at 921: 2-10. The assigned ALJ asked this question twice to confirm this was the expert witness’ understanding. Both times he responded that it was.

and Deployment (BEAD) Program do not consider mobile broadband coverage when determining eligibility.<sup>114</sup> Even if Dr. Israel was correct that the Commission used these broadband coverage maps for the purpose of funding determinations that considered mobile broadband coverage, as TURN notes, that would still differ fundamentally from the policy question of whether consumers possess a viable and operational alternative to AT&T's voice service.<sup>115</sup>

An inaccurate understanding of the purpose of the maps he relied on is not the only analytical deficiency contained in Dr. Israel's testimony. Beyond the foundational issues of relying on inaccurate legal analysis and not knowing the purpose of the analytical tools he relied on, Dr. Israel's testimony is hampered by his not understanding the data that is used to create the maps he relied on. Specifically, Dr. Israel testified that wireless (mobile wireless, not fixed wireless) coverage data submitted by wireless providers was validated by the Commission using subscriber data at the census block level,<sup>116</sup> meaning that the Commission collects both deployment data and subscriber data from broadband providers and that for a census block to be considered served by that provider, its deployment data must indicate it offers served speeds in the census block, and its subscriber data must indicate it has at least one subscriber at served speeds in the same census block. While this is true for fixed broadband service data, it is not true for mobile data. Had the witness reviewed any of the following documents, it would have been clear that the Commission does not collect mobile subscriber

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<sup>114</sup> BEAD Program eligibility rules were adopted on May 9, 2024, when the Commission approved D.24-05-029.

<sup>115</sup> TURN, Reply Briefs, at 30.

<sup>116</sup> April 9 Evidentiary Hearing Transcript at 917: 12-14

data at the census block level, and does not use it to validate broadband deployment:<sup>117</sup>

- D.16-12-025, which ordered all communications providers to submit annually broadband subscriber and deployment data at the census block level and allowed mobile providers to submit subscriber data at the census tract level;<sup>118</sup>
- The Commission's processes for validating the broadband data collected from providers;<sup>119</sup> or
- The latest broadband and voice data collection data request issued by the Commission's Communications Division on March 13, 2024.

As noted above, the California Broadband Map is not used when evaluating ETC service territories. Moreover, the practical impact of validating mobile broadband data at the census tract geographic span means that if a provider has one customer in a census tract, the entire tract is viewed as served by that provider. In this case, accepting the premise that if one customer in a census tract can receive service, all customers receive service, as Dr. Israel, perhaps unknowingly, does, is not consistent with the requirement in 47 U.S.C. Section 214(e)(4) that all customers receive service.

AT&T's expert witness also testified that "[when the Commission grants] ETC status, they say it's in the entire service area, and that service area is effectively represented by the map."<sup>120</sup> This conclusion ignores the reservations

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<sup>117</sup> On July 24, 2024, the assigned ALJ issued a ruling taking notice of the documents listed above, offering parties an opportunity to comment on these documents.

<sup>118</sup> D.16-12-025 at Ordering Paragraph 1.

<sup>119</sup> Also available on the Commission's website as of this writing at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-mapping/california-broadband-data-processing-and-validation--2021-v22.pdf>

<sup>120</sup> April 9 Evidentiary Hearing Transcript at 928: 25 - 929: 2

the Commission has repeatedly expressed about wireless ETCs being able to serve everywhere in the service territories represented by those maps.<sup>121</sup>

During the examination, the witness' awareness of similar proceedings in other states was spotty, with the witness recalling that he reviewed the decisions from Michigan,<sup>122</sup> partially reviewed Kansas,<sup>123</sup> did not review Ohio,<sup>124</sup> and was not able to recall whether he reviewed decisions in Arkansas,<sup>125</sup> and Nevada,<sup>126</sup>

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<sup>121</sup> See, e.g., Resolution T-17437, which conditionally approved the ETC application of TAG Mobile, LLC at 15, Resolution T-17436, which conditionally approved the ETC application of Boomerang Wireless, LLC, at 15, Resolution T-17466, which conditionally approved the ETC application of Global Connection, Inc. of America, doing business as "Stand Up Wireless," at 14 and Resolution T-17448, which conditionally granted the ETC application of Air Voice Wireless, LLC at 17:

"Although wireless phone service offers great mobility for consumers, there are safety concerns related to wireless mobile phone service and E-911 and/or 911 connection limitations. Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own direct customers."

See also, Resolution T-17473, which conditionally approved the ETC application of Blue Jay Wireless, LLC at 11: "Blue Jay will require consumers to make an outbound call to activate their service." At 18:

"CD staff has safety concerns in two main areas of wireless phone service: the coverage of wireless mobile phone service and the ability of emergency first responders to find the location of the caller when using a mobile phone.

Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own customers. An incomplete emergency call can have devastating results."

<sup>122</sup> April 9 Evidentiary Hearing Transcript at 827:14-16

<sup>123</sup> *Id.*, at 820: 10-16

<sup>124</sup> *Id.*, at 825: 14-21

<sup>125</sup> *Id.*, at 824: 1-4

<sup>126</sup> *Id.*, at 829: 2-9



while drafting his testimony. As noted by CforAT and TURN, Dr. Israel's conclusions neither contemplate nor respond to decisions from other state commissions. While decisions made by state commissions are not binding on this Commission, not being prepared to rebut the critiques raised in these decisions, or simply responding with inaccurate legal analysis, is not the mark of an expert witness.

Given the significant flaws discussed above, we find AT&T's explanation about Dr. Israel's testimony to be unpersuasive and, instead, agree with CforAT and TURN. Dr. Israel either was remarkably unaware of some very basic concepts and assumptions contained in his analysis, chose to not conduct further research regarding these concepts and assumptions, or prepared his testimony as instructed by AT&T, according to the exact limits prescribed by AT&T, without consideration of any errors contained in those instructions, and without the independence of an expert witness. These deficiencies and inaccuracies lead the Commission to find the testimony of Dr. Israel to not be persuasive or credible. We afford Dr. Israel's testimony no weight.<sup>127</sup>

Given that Dr. Israel is AT&T's lone expert witness, and the sponsor of all AT&T exhibits, the determination to afford his testimony no weight means that almost all of AT&T's claims are not sufficiently reliable for the Commission to make a finding of fact which would lead to the Commission approving AT&T's Application, as there is little to no reliable evidence remaining in the record to support AT&T's claims.

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<sup>127</sup> The lone exception to this finding on credibility is where Dr. Israel discussed his interactions with AT&T and its attorneys.

**8. AT&T Minimizes Significantly the Number of AT&T Customers for Which Service Must Continue**

As noted above, in order to grant AT&T's Application, the Commission must ensure that "all customers served by the relinquishing carrier will continue to be served" and the Commission interprets that to mean all residential customers. AT&T's analysis of the customers that must continue to receive service by replacement ETCs is only a small subset of all customers: AT&T's Lifeline customers.<sup>128</sup>

AT&T's explanation for this is that the purpose of its ETC designation is so that it may receive reimbursement from the federal Lifeline Program for providing local voice telephone services to eligible low-income consumers at discounted prices, and that, prior to 2021, AT&T also received federal "high-cost" program support, but that it no longer receives that support.<sup>129</sup> AT&T opines that the only customers potentially impacted by this Application are Lifeline customers.<sup>130</sup>

AT&T and its attorneys also claim the following:

"During the (August 2, 2023) status conference, the Assigned Administrative Law Judge suggested that Section 214(e)(4) does not require an alternative ETC to be capable of serving every potential customer in the wire center, census block, or any other area in order for the Commission to permit AT&T California to relinquish its ETC designation. Rather, the Assigned Administrative Law Judge suggested that the

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<sup>128</sup> AT&T's data do not distinguish between subscribers eligible for both California LifeLine and federal Lifeline discounts or only California LifeLine. *See*, Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, filed January 19, 2024, at footnote 103. Also, Exh. AT&T-10.

<sup>129</sup> Application at 2.

<sup>130</sup> Pacific Bell Telephone Company D/B/A AT&T California's (U 1001 C) Response to the Administrative Law Judge's Ruling Requiring Additional Information, filed August 24, 2023, at 12.

statute only requires the Commission to find that an alternative ETC is available to continue to serve each existing AT&T California Lifeline customer.”<sup>131,132</sup>

AT&T’s choice to include only Lifeline customers in its analysis of “all customers” that must continue to be served is not consistent with statute,<sup>133</sup> nor with its ETC designation, since AT&T has not withdrawn as a High-Cost ETC. Further, AT&T’s retelling of the discussion at the August 2, 2023, Status Conference is not accurate.

On July 28, 2023, the assigned ALJ served on the Service List a map of the service territories of each ILEC in California, including AT&T,<sup>134</sup> with the intent of using that map at the August 2, 2023 status conference. In the conversation referenced by AT&T and its attorneys, the assigned ALJ opined that using maps displaying AT&T’s local loops may more accurately reflect where AT&T’s existing customers are located, versus relying on the map served on the Service List. Specifically, the assigned ALJ stated:

“... option one ... was to ask AT&T to provide the location of its local loops and that ... would be the territory that we'd have to cover.

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<sup>131</sup> Exh. AT&T-03 at 11. Exh. AT&T-03 is *Pacific Bell Telephone Company D/B/A AT&T California's (U 1001 C) Response to the Administrative Law Judge's Ruling Requiring Additional Information*, filed August 24, 2023. At the April 9, 2024 Evidentiary Hearing, AT&T’s expert witness testified under oath that AT&T’s attorneys prepared Exh. AT&T-03, but he adopted this as his own testimony. *See*, Transcript at 813:25 -816:1.

<sup>132</sup> The following attorneys attested to this filing: Isabelle Salgado, Nelsonya Causby, Maureen R. Jeffreys, and C. Frederick Beckner III.

<sup>133</sup> At the August 2, 2023, Status Conference, CforAT’s attorney noted that “The statute actually says, ‘all customers served by the relinquishing carrier.’ So it's not specific as to LifeLine customers.” (Transcript at 17: 1-3.)

<sup>134</sup> *See*, Available as of this writing at: [https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/high-cost-support-and-surcharges/chcf-a-1/ilec-territories-2023\\_230412.pdf](https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/high-cost-support-and-surcharges/chcf-a-1/ilec-territories-2023_230412.pdf)

Option number two would be parties stipulate to using the map that -- basically the shapefiles that were created for the map that was shown earlier or whatever -- or a similar map ... and that's the base map<sup>135</sup> going forward. It sounds like there's general agreement to do that, so it would be useful to identify what map that is.”<sup>136</sup>

The conversation focused on whether there was a more accurate manner to display and account for the AT&T customers that needed to be served by replacement ETCs, since a map of the service territory for a particular ILEC wire center region is a polygon of census block groups, meaning that it does not indicate where AT&T's customers are located and thus, overstates the geographic span that must be analyzed. The assigned ALJ initially opined that a map of AT&T's “loops,” the wires by which a customer receives their telephone service,<sup>137</sup> might be a more accurate geographic span to use. When the assigned ALJ used the term “loops” to refer to “local loops,” Nelsonya Causby, one of AT&T's attorneys appearing at the Status Conference, requested clarification regarding if the assigned ALJ meant “local loops.” The assigned ALJ provided that affirmative clarification.<sup>138</sup> At no time during the discussion did the assigned ALJ mention Lifeline, let alone express agreement with AT&T's analytical approach. Instead, the assigned ALJ repeatedly indicated that the statute clearly states “all customers.”<sup>139</sup> Given the clarification provided by the assigned ALJ in response to specific questions from AT&T's attorneys, as well as the clear

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<sup>135</sup> The geographic span that AT&T currently serves as an ETC, and the service territory from which AT&T is seeking to relinquish. *See*, Reporter's Transcript, Virtual Status Conference, August 2, 2023, at 6:11-13.

<sup>136</sup> Reporter's Transcript, Virtual Status Conference, August 2, 2023, at 17:22-18:7.

<sup>137</sup> *Id.*, at 11:21-12:11.

<sup>138</sup> *Id.*, at 11:21-18:7.

<sup>139</sup> *Id.*, at 6:8-10, at 13:4-6, 31:12-13, .

understanding of the two attorneys representing AT&T at the Status Conference, there should be no confusion on this issue.

The practical result of AT&T's choice is that it underestimates drastically the number of customers that must be analyzed in this Application. AT&T's expert witness claims that AT&T's data as of December 2023 indicates that AT&T had 485,635 total POTS customers and about 96,192 Lifeline subscribers, meaning that AT&T excludes over 80 percent of its customers.<sup>140</sup> However, this number appears to exclude VoIP customers, the amount of customers excluded by AT&T is closer to 90 percent.<sup>141</sup> This massive exclusion of customers limits the ability of the Commission to evaluate accurately whether all residential customers will continue to receive service.

#### **9. AT&T Overstates Coverage Ability of ConnectTo Communications**

AT&T's initially-filed Application included two wireline ETCs, Blue Casa and ConnectTo, that AT&T claimed would be able to serve everywhere in its service territory, sufficient to demonstrate that AT&T's Application met the standard in statute with just those two carriers.<sup>142</sup> At the December 13, 2023 Status Conference, AT&T attorneys informed the assigned ALJ that AT&T had removed Blue Casa from its analysis of replacement ETCs, in light of Blue Casa's

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<sup>140</sup> Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, filed January 19, 2024, at 55-56, Table 12. Also, Exh. AT&T-10.

<sup>141</sup> Based on a review of confidential reports submitted by AT&T, pursuant to General Order 133-D.

<sup>142</sup> At the August 2, 2023 Status Conference, AT&T attorney Nelsonya Causby stated that two wireline resellers cover AT&T's territory as ETCs (27:10-11). AT&T attorney Maureen Jeffreys repeated that statement (27:15-16), adding that AT&T "satisfied the standard with those two (ETCs)..." (27:16-17). At the December 13, 2023 Status Conference, AT&T attorney Maureen Jeffreys identified the two wireline ETCs (AT&T Reporter's Transcript, Virtual Hearing, December 13, 2023, at 57:14-23).

application to exit the California market.<sup>143</sup> Thus, ConnectTo remains, in AT&T's opinion, a wireline ETC that can replace AT&T throughout its service territory.

In post-hearing briefs, AT&T and one of its attorneys states that ConnectTo is "not a material factor in the relinquishment analysis."<sup>144</sup>

TURN argues that the Commission should not rely on ConnectTo as a replacement ETC due to its Lifeline-Only ETC designation, actual service territory, and limited facilities.<sup>145</sup> TURN contends ConnectTo is not a viable alternative to AT&T because it is not reasonable to believe that the Commission could order ConnectTo, by virtue of its Lifeline-Only ETC designation, to build or acquire additional facilities to potentially serve customers anywhere in AT&T's service territory.<sup>146</sup> TURN states that Dr. Israel's analysis overstates ConnectTo's actual service area and capabilities.<sup>147</sup> Referring to Blue Casa's California market exit, due to economic and operational challenges, TURN opines that those same difficulties are not unique to Blue Casa, as ConnectTo is similar.<sup>148</sup>

It is not clear why the characterization made by AT&T and its attorneys regarding ConnectTo's service capabilities evolved between when AT&T filed its

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<sup>143</sup> Reporter's Transcript, Virtual Status Conference, December 13, 2023, at 57:14-23.

<sup>144</sup> AT&T, Opening Brief, at 60.

<sup>145</sup> TURN, Opening Brief, at 57.

<sup>146</sup> *Id.*, at 55.

<sup>147</sup> *Id.*, at 54.

<sup>148</sup> *Id.*, at 56. For example, in 2020, the FCC eliminated unbundling requirements for certain types of loops in areas with competition or dense populations which has increased the precarity of many resellers, one of the factors that Blue Casa cited in its explanation for withdrawing from the residential market in California. Blue Casa offered service over multiple carriers' networks, including AT&T. Similarly, ConnectTo offers service over AT&T's network and is likely subject to the same "economic and operational changes" that Blue Casa mentions as reasons it can no longer operate.

Application and when AT&T filed its post-hearing brief. It is clear, however, that the service territory of ConnectTo is much smaller than AT&T has represented, confined to an area covered by fewer than ten AT&T wire centers in Los Angeles County where ConnectTo is collocated with AT&T facilities.<sup>149</sup> In addition to the evidence in the record, the coverage capabilities of ConnectTo is corroborated with a letter from Araksiya Nadjarian, Chief Executive Officer of ConnectTo, which was served on the Service List of this proceeding on March 29, 2024. This letter indicates that “ConnectTo's telecommunications network and facilities are concentrated in nine central offices of AT&T, significantly restricting our service capabilities to certain areas within Los Angeles County, including Glendale, Burbank, North Hollywood, Van Nuys, a portion of Pasadena, and parts of Hollywood and the City of Los Angeles.”<sup>150</sup> It appears that AT&T and its attorneys knew ConnectTo's service territory, and reported this information in a January 2024 response to a TURN data request.<sup>151</sup>

The accuracy of AT&T's representations regarding ConnectTo's service territory was first raised by the assigned ALJ at the December 13, 2023, Status Conference, where the assigned ALJ noted ConnectTo's limited coverage on the California Broadband Map, questioned AT&T on the issue and instructed AT&T to provide an accurate Application.<sup>152</sup>

On January 5, 2024, AT&T filed the required response, but did not revise ConnectTo's service territory, asserting that AT&T “appropriately included

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<sup>149</sup> TURN Exh. 16 and 16-C.

<sup>150</sup> See, letter from Araksiya Nadjarian, Chief Executive Officer of ConnectTo. The wire centers listed in this letter are different from TURN Exhibit 16 and 16-C by one wire center.

<sup>151</sup> TURN Exh. 16 and 16-C. The response to TURN's data request is dated January 22, 2023. The Commission assumes this was an accident and the actual date is January 22, 2024.

<sup>152</sup> Reporter's Transcript, Virtual Status Conference, December 13, 2023, at 56: 17-70:5.

Connect To (*sic*) in this ETC Analysis, and correctly and clearly identified ConnectTo as an ETC throughout the entirety of AT&T California's service territory based on its status as a reseller of AT&T California's wireline service."<sup>153</sup> AT&T further contends that multiple legal authorities obligate ConnectTo to provide Lifeline services throughout AT&T California's service territory, including the Lifeline provisions of ConnectTo's tariff on file with the Commission, the resolution the Commission adopted in approving ConnectTo as an ETC, and ConnectTo's interconnection agreement with AT&T.<sup>154</sup>

As previously noted, AT&T's argument that ETCs are obligated to serve all customers in their service territory is not accurate, except, perhaps, in the case of Full ETCs that serve in Sierra and Trinity Counties – which is not the case in this proceeding. AT&T's opinion that ConnectTo's tariff requires it to serve everywhere in AT&T's service territory is neither supported nor accurate. ConnectTo is not a COLR. Finally, AT&T's opinion that the interconnection agreement between it and ConnectTo sets a legal standard requiring ConnectTo to serve anywhere is not accurate. The obligations of an interconnection agreement are on AT&T to provide certain services to ConnectTo, as well as access to certain AT&T facilities or equipment, in exchange for payments at a tariffed rate. ConnectTo's obligation is to pay AT&T the appropriate charges.

Based on the record, the Commission finds that ConnectTo's service territory is confined to less than ten AT&T wire centers in Los Angeles County, instead of the 616 wire centers that AT&T claims. ConnectTo is not required to serve as a replacement ETC for AT&T customers throughout AT&T's entire

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<sup>153</sup> AT&T, Response to Questions of the Administrative Law Judge, filed January 5, 2024, at 1-2.

<sup>154</sup> *Id.*, at 2-5.



service territory. However, in wire center regions where ConnectTo is able to serve all AT&T customers, the Commission will grant AT&T's withdrawal. Ascertaining which wire center regions will require additional information, as the wire centers identified in TURN Exh. 16-C do not completely overlap with the wire centers identified in the letter from Araksiya Nadjarian.

Finally, the record raises concern that AT&T and its attorneys may not have complied with the assigned ALJ's instructions and may have misled the Commission about the service capabilities of ConnectTo in 606 AT&T wire center regions, which, if true, could constitute violation of Rule 1.1.

#### **10. AT&T's Claims About Wireless ETCs are Not Supported**

As noted in Section 6.7 of this decision, for a replacement ETC to be a viable alternative to AT&T's service, it must possess the practical ability to serve all current customers in the relinquishment area at the individual customer level. The evidence in the record indicates that AT&T failed to meet the burden of proving that its proposed wireless replacement ETCs have that practical ability to serve current customers in the relinquishment area at the individual customer level, since their service coverage maps reflect outdoor network coverage. Additionally, AT&T's claims regarding the ability of wireless ETCs to replace its service are, at best, overstated. Further, there is reason for concern that AT&T failed to comply with an order from the assigned ALJ regarding wireless reseller ETCs.

To begin with, as already discussed, AT&T's repeated claims that its proposed replacement ETCs are legally required to serve all customers in their approved service territory misstate the ETC requirements, except, perhaps, for Full ETCs that serve in Trinity and Sierra Counties. Additionally, the preemption

from regulating market entry for wireless providers contained in 47 U.S.C. Section 332 (c)(3) appears to prevent this Commission from requiring wireless ETCs to replace AT&T.<sup>155</sup>

AT&T's Application also is hindered significantly by the credibility issues with the testimony of AT&T's expert witness, discussed above in Section 7 of this decision, which means the Commission cannot rely on his testimony as evidence, and, therefore, cannot make a finding based on the information provided in those documents. Almost all of the information in this proceeding provided by AT&T is contained in the adopted testimony of its expert witness.

As noted by CforAT,<sup>156</sup> AT&T's Opening Brief includes new material that was not moved into evidence nor subject to cross examination. This includes comments filed by this Commission to the FCC,<sup>157</sup> annual data requests sent by this Commission's Communications Division to broadband providers in

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<sup>155</sup> 47 U.S.C. Section 332 (c)(3) (A) reads, in part: "Notwithstanding sections 152(b) and 221(b) of this title, no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services."

<sup>156</sup> CforAT, Reply Brief, at 3-4.

<sup>157</sup> See, AT&T Opening Brief at footnotes 152-155.

California,<sup>158</sup> studies or articles regarding wireless propagation models,<sup>159</sup> and miscellaneous items.<sup>160</sup>

The data requests are prior versions of the annual Commission Broadband Data Collection, noticed by the assigned ALJ in a July 24, 2024 Ruling.<sup>161</sup> Thus, there is little harm in discussing these documents. Moreover, the fact AT&T references, that the Commission expects submissions to reflect actual coverage, is not in dispute. In dispute is AT&T's claim this means that the data submitted by providers reflects actual coverage. That supposition is not supported nor logical.

As noted by CforAT,<sup>162</sup> the studies or articles regarding wireless propagation that AT&T includes in its Opening Brief at footnotes 164-167 and 171-172 were not admitted into the record, nor offered as exhibits, nor provided to all parties during discovery, nor included in a motion for official notice. As such, CforAT and, presumably, TURN have not had the opportunity to review or respond to those cited materials. Briefs do not constitute evidence. Accordingly, this information is afforded no weight and will not be considered.

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<sup>158</sup> *Id.*, at footnotes 159-161.

<sup>159</sup> Footnotes 164 and 165 cite Harsh Tataria et al., Standardization of Propagation Models for Terrestrial Cellular Systems: A Historical Perspective, 28 Int'l J. of Wireless Info. Networks 20, 41 (2020). Footnote 166 cites Tristan Curry & Robert Abbas, 5G Coverage, Prediction, and Trial Measurements at 4 (Mar. 21, 2020), <https://doi.org/10.48550/arXiv.2003.09574> (available as of this writing). Footnote 167 cites Mohamed K. Elmezughi et al., Comparative Analysis of Major Machine-Learning-Based Path Loss Models for Enclosed Indoor Channels, Sensors, July 2022. Footnotes 171 and 172 cite Int'l Telecomm. Union, Recommendation ITU-R P.530-18: Propagation Data and Prediction Methods Required for the Design of Terrestrial Line-of-Sight Systems 14 (2021).

<sup>160</sup> For example, as part of footnote 159, AT&T includes a reference to a website for Forsk, entitled "Atoll Overview."

<sup>161</sup> See, Administrative Law Judge's Ruling Taking Official Notice, issued July 24, 2024, Attachment C.

<sup>162</sup> CforAT, Reply Brief, at 3-4.

AT&T did not successfully rebut the fact that coverage areas in the FCC's Mobile Broadband Map "reflect where consumers should be able to connect to the mobile network when outdoors or in a moving vehicle; they do not show indoor coverage."<sup>163</sup> AT&T's best argument in response is to quote Dr. Israel's statements at the April 9 Evidentiary Hearing regarding the accuracy of the data used by Dr. Israel,<sup>164</sup> and to rely on Dr. Israel's statements, in response to questions from the assigned ALJ about the wireless ETC coverage, that wireless coverage maps have improved. Dr. Israel stated that (wireless) propagation maps have improved over time in terms of how they address trees and with these "follow-on checks like having an app that's out there on people's phones to check the speeds and there's a lot more of those now, so there's more data."<sup>165</sup>

In addition to the credibility issues discussed in Section 7 of this decision, these opinions are given no weight due to Dr. Israel's lack of standing to make such statements. Dr. Israel is an economist and presented his analysis as one. Dr. Israel is not a network engineer, nor a specialist in wireless propagation or geographic analysis. Thus, it is not clear how his proclamations in this regard can be considered credible.

Due to limitations of wireless signal propagation, the Commission has expressed reservations repeatedly about the ability of wireless ETCs to serve

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<sup>163</sup> Exh. TURN-08

<sup>164</sup> See, AT&T, Opening Brief, at Footnote 158; April 9, 2024 Hearing Tr. at 922:4-5 (describing maps as "the best source of information out there to try to show the entirety of [a carrier's] service area"); *id.* at 835:15 (explain that maps are "the most accurate available"); see *id.* at 846:2-13 ("[W]hat I rely on is the CPUC's maps indicating whether a service is available on a census block, which is very small. That's the best information we have ... nothing about this statement would change my ... reliance on the CPUC data is the best data that we have.").

<sup>165</sup> April 9 Evidentiary Hearing Transcript at 931: 8-13.

their entire approved service territory.<sup>166</sup> Given these reservations, on July 21, 2023, the assigned ALJ ordered AT&T to update its analysis regarding alternative ETC service coverage by removing the territories of ETCs that are wireless resellers, unless AT&T could show the gaps in service availability.<sup>167</sup> On August 24, 2023, AT&T filed an updated version of its Application. The lone wireless ETC removed from AT&T's analysis was Blue Jay Wireless, which was removed due to its application to discontinue service in California.<sup>168</sup>

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<sup>166</sup> See, e.g., Resolution T-17437, which conditionally approved the ETC application of TAG Mobile, LLC at 15, Resolution T-17436, which conditionally approved the ETC application of Boomerang Wireless, LLC, at 15, Resolution T-17466, which conditionally approved the ETC application of Global Connection, Inc. of America, doing business as "Stand Up Wireless," at 14 and Resolution T-17448, which conditionally granted the ETC application of Air Voice Wireless, LLC at 17:

"Although wireless phone service offers great mobility for consumers, there are safety concerns related to wireless mobile phone service and E-911 and/or 911 connection limitations. Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own direct customers."

See also, Resolution T-17473, which conditionally approved the ETC application of Blue Jay Wireless, LLC at 11: "Blue Jay will require consumers to make an outbound call to activate their service." At 18:

"CD staff has safety concerns in two main areas of wireless phone service: the coverage of wireless mobile phone service and the ability of emergency first responders to find the location of the caller when using a mobile phone.

Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own customers. An incomplete emergency call can have devastating results."

<sup>167</sup> July 21, 2023, Ruling at 4.

<sup>168</sup> TURN's statement at the August 2, 2023, status conference may have led to this action, instead of the ruling. See, TURN's Reply Brief at 21.

More recently, when the Commission adopted D.25-09-031 on September 18, 2025, it declined to adopt a proposed requirement that wireless carriers create and maintain wireless coverage maps at the address or location level<sup>169</sup> because certain wireless industry parties stated they could not meet that standard.<sup>170</sup>

Many comments at public participation hearings and on the Docket Card for this proceeding<sup>171</sup> also call into question whether AT&T's proposed wireless

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<sup>169</sup> D.25-09-031 at 151:

"It is reasonable to expect that telecommunications coverage maps are accurate. However, Verizon's candor that it (and presumably other wireless carriers) cannot meet the proposed granularity requirements of providing maps due to technological limitations means the Commission would be collecting mapping data that is not useful were it to adopt the Staff Proposal on this point... The fact that the nationwide wireless providers already have coverage maps obviates the need for this requirement, until wireless providers improve their maps. Given the noted inaccuracies that may be included on these maps, it is the Commission's expectation that wireless providers will continue to work on improving their maps. Thus, the Commission revises the GO (General Order) to exclude this requirement."

<sup>170</sup> See, D.25-09-031, at 149:

"Verizon states that 'the proposed requirement that coverage maps are capable of 'verifying coverage at exact address'... requires a level of certainty as to service availability at an address that is reasonable in the wireline context but unreasonable for wireless services. CTIA agrees, adding that it is not possible to guarantee an exact coverage level at a specific location at all times, since coverage at a given location will be affected at various times by factors such as sunspots and solar wind activity, and changes in tree foliage, among others."

See also, D.25-09-031, at 150: AT&T states that its "online mapping tool allows customers to input an address to view an approximation of outdoor coverage by technology (i.e., 5G+, 5G, 4G, LTE coverage, and partner coverage)."

<sup>171</sup> Examples of these public comments include, but are not limited to, the ones discussed below. Public Comment of Wallace Stahl, Reporters' Transcript, Ukiah, California, February 22, 2024, at 292:9-15:

"These existing lines still go to where the signals, tower signal dependent cell towers don't reach ... allowing AT&T to abandon the far flown customers who live outside or below the available microwave signals stopped by the mountains or below them in canyons like (indecipherable) and Brooktrails just a mile or two outside of Willits."

*Footnote continued on next page.*

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Public Comment of Neil Altimari, Reporters' Transcript, Ukiah, California, February 22, 2024 at 293: 24-295:9:

"...I live locally here in Mendocino County, Redwood Valley... we have got two cell phone carriers up there, and I have my landline through AT&T. One cell phone is through T-Mobile and it gets one bar, a lot of dropped calls; and another one is through AT&T, and it gets one bar and a lot of dropped calls... I work up here in Laytonville California (indecipherable) if you're not sure where it's at. And in that fire station -- in the fire station, I have got no cell phone service through T-Mobile and nothing on the AT&T cell phone..."

Public Comment of Victor Aparicio, Reporters' Transcript, Ukiah, California, February 22, 2024 at 299:7-300:9:

"I am a tribal member from the Manchester Point Arena Band of Pomo Indians. I am also on the Board of Trustee for Point Arena School District..."

I heard ... the AT&T rep, talk about Comcast and all these wonderful things and, you know, AT&T wireless and all of that. Well, anybody that lives on the South Coast in Point Arena specifically knows that that is merely impossible.

I am the water operator for my tribe. I was a former tow truck driver also, and I covered almost 100 miles of ... land while I was a tow truck driver and probably had cell service maybe 30 percent of the time...

[My Aunt] can't get cell service out where she's at because of the -- because of the trees. So, there is no help for her. She's tried T-Mobile, AT&T, Verizon, US Cellular, none of them work..."

Public Comment of Liz Cooper, Browns Valley, CA, submitted on April 28, 2024:

"...I live in the Yuba County Foothills. My home is in a valley and does not receive any cell phone coverage unless I climb up a hill about 1000 yards..."

Public Comment of Armen Carlon, Forest Ranch, CA, submitted on April 28, 2024:

"The proposed map submitted by AT&T for relief from landline obligations is absolutely NOT correct for our address.... The alleged wireless coverage at this location is unreliable and cannot be depended on in an emergency, such as the Camp Fire, when wireless communications systems were rendered useless. This is a safety and hazard issue, and removing this service will put lives in danger..."

Public Comment of William Carriere, Glenn, CA, submitted on April 26, 2024:

"Our home is located along the Sacramento River in Glenn County. Cell service is spotty at best. This area is completely covered in Blue by the map, indicating that service exists. I have calls dropped all the time along the river and especially along Hwy 45 in Glenn and Colusa counties. Unfortunately T-Mobile, Verizon and others I have tried are even worse than ATT, so stuck with spotty ATT service."

ETCs are able to offer service to every potential customer that requests it, instead claiming there are gaps in these wireless providers' coverage due to changes in terrain, dense foliage, geographic or structural obstacles and other characteristics that limit wireless signal propagation. Section 15 of this decision summarizes public comments submitted to the Docket Card.

While the Commission uses its CalSPEED app<sup>172</sup> to assist with validating both fixed and mobile broadband coverage, as noted by TURN, the Commission conducts drive tests (outdoors) at only roughly 4,000 locations across California, far from hundreds of thousands of locations across the state.<sup>173</sup>

AT&T has not met the burden of supporting its claims regarding the ability of its proposed replacement wireless ETCs to step in and replace AT&T's service. In essence, AT&T's Application rests on the argument that because the Commission collects the data and instructs providers to reflect actual coverage, and AT&T claims the data reflects actual coverage, the maps created using that data are accurate. AT&T dismisses concerns about mobile coverage as "unfounded,"<sup>174</sup> even when those concerns are expressed in Commission decisions and resolutions, comments from customers, and orders from the assigned ALJ.

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<sup>172</sup> The Commission's CalSPEED program measures the reliability, quality, and availability of mobile wireless services. CalSPEED uses its own open-source software to take these measurements. This information is used to create online maps that display the data gathered. CalSPEED uses its own software in smartphones to take measurements at more than 4,000 locations in urban, rural, and Tribal areas across California. CalSPEED measures downstream and upstream speeds, round trip time, service consistency, data loss, call quality, video quality, and more.

<sup>173</sup> TURN Opening Brief, at 42.

<sup>174</sup> AT&T Opening Brief at 37.



Additionally, AT&T's statements regarding the accuracy of wireless maps are contradicted by wireless industry statements in another Commission proceeding, such as R.22-03-16, in which the Commission recently adopted D.25-09-031.

Focusing solely on AT&T's Lifeline customers further exacerbates the issue of not knowing whether all AT&T customers are able to receive service from one of AT&T's proposed replacement ETCs, as it means more customers cannot be served in their homes, and the Commission does not know the locations of these customers because AT&T did not consider or provide that information.

The concern that AT&T did not comply with the July 21, 2023 Ruling is heightened by the fact that AT&T's expert witness testified at the Evidentiary Hearing that he did not recall reviewing the ruling,<sup>175</sup> and did not review the response to the ruling prior to AT&T filing it.<sup>176</sup> AT&T's position that concerns about the capabilities of mobile wireless ETCs are "unfounded"<sup>177</sup> is not a sufficient response to a Commission order.

#### **11. Cox, Time Warner, and Consolidated May Meet Statute in Certain Locations**

The record indicates that wire center regions served by Cox, Time Warner, and Consolidated, *may* meet the relinquishment standard, *if* all customers are served. The requirement in statute also may have been met for the wire center regions served by ConnectTo in Los Angeles County.

AT&T argues Dr. Israel showed that approximately 26 percent of AT&T California's census blocks covering over 40 percent of its population are served

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<sup>175</sup> April 9 Evidentiary Hearing Transcript at 921: 11-22.

<sup>176</sup> *Id.*, at 814: 17-20.

<sup>177</sup> AT&T Opening Brief, at 37.

by Cox, Time Warner, and Consolidated.<sup>178</sup> To depict Time Warner's ETC territory, Dr. Israel relied on the Time Warner's June 2016 FCC Form 477 submission, as he did not possess shapefiles that separated Charter's territory from Time Warner's.<sup>179,180</sup>

TURN contends the Commission should not treat the cable companies identified in AT&T's Application – Cox and Time Warner – as Full ETCs for the purpose of identifying replacement ETCs in AT&T's service territory, given their mixed status as Lifeline-Only and High-Cost ETCs. Further, TURN asserts that the ETC service territories of Cox and Time Warner do not overlap completely with AT&T's service territory. TURN states that Cox has been a Lifeline-Only ETC throughout its service territory since 2013 and obtained Full ETC designation in select census blocks where the FCC awarded Cox federal Rural Digital Opportunity Fund (RDOF) grant funding in 2020. In total, Cox is a Full ETC in 236 census blocks in California: 111 census blocks in Orange County, 102 census blocks in San Diego County, 18 census blocks in Los Angeles County, and five census blocks in Santa Barbara County.<sup>181</sup> In census blocks where Cox is a full ETC, TURN claims there appears to be no overlap with any AT&T wire center region. However, TURN also opines that even if there were overlap, Cox may not have completed its RDOF infrastructure projects because the RDOF support provides funding for ten years.<sup>182</sup>

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<sup>178</sup> AT&T Opening Brief, 37-38. Exhibit AT&T-27.

<sup>179</sup> Rebuttal Testimony of Mark A. Israel on Behalf of AT&T, served January 19, 2024, at 28.

<sup>180</sup> Charter acquired Time Warner Cable in 2016.

<sup>181</sup> TURN Opening Brief, at 30.

<sup>182</sup> *Id.*

Similarly, TURN states that Time Warner has had Lifeline-Only ETC status throughout its service territory since 2014, and obtained Full ETC designation in select census blocks in its service territory where the FCC awarded Time Warner RDOF grant funding in 2020. Time Warner is a Full ETC in three census blocks in California: two census blocks in San Diego County and one census block in Los Angeles County.<sup>183</sup> TURN argues that where a cable company has Full ETC designations, the Commission should confirm that customer can receive cable services inside their home.

Time Warner's ETC application, approved by the Commission in D.14-03-038, includes service in parts of Los Angeles County, and to a lesser extent, service in parts of the following counties: Orange, San Diego, San Bernardino, Riverside, Ventura, and Kern.<sup>184</sup> The Commission modified Time Warner's ETC designation in Resolution T-17735 so that Time Warner and other ETC applicants could receive funding under the RDOF to serve 524 locations.<sup>185</sup> Cox Communications' ETC application, approved by the Commission in D.13-10-002, indicates Cox offers service in portions of the following counties: San Diego, Los Angeles, and Santa Barbara.<sup>186</sup>

It appears that the cable companies meet several of the underlying concerns raised by intervenors regarding other proposed replacement ETCs. Both Cox and Time Warner are relatively larger companies that own the

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<sup>183</sup> *Id.*, at 31.

<sup>184</sup> *See*, Exhibit A (A. 13-10-019): List of California Municipalities for which TWCIS(CA) Seeks ETC Designation.

<sup>185</sup> Resolution T-17735, Grants the Request of Five Carriers that Filed for Eligible Telecommunications Carrier Designation Pursuant to the Federal Communications Commission's Rural Digital Opportunity Fund Program, issued June 4, 2021, at 5.

<sup>186</sup> *See*, Attachment 1 (A. 12-09-014): Cox's Service Territory.

infrastructure over which they offer their service. Both companies are Full ETCs, at least in certain parts of their service territories. Both companies offer wireline voice service. Intervenor even appeared open to stipulating that these two proposed replacement ETCs may meet the standard in statute in certain wire center regions.<sup>187</sup>

One challenge with making a determination regarding Cox and Time Warner is that there is not sufficient evidence in the record to determine the exact location of the relevant networks for Cox and Time Warner and overlap that geographic information with AT&T's network. Cable networks and ILEC service territories do not overlap completely.<sup>188</sup> Additionally, it is not clear whether the Commission can order Cox and Time Warner to serve customers, though both companies can volunteer to serve.

## **12. The Testimony of TURN's Expert Witness is Not Credible**

AT&T opines that Ms. Baldwin's testimony is "meaningless," as it consists of hearsay complaints made by three individuals whose locations she did not know.<sup>189</sup> Further, AT&T states that Ms. Baldwin could not say which carriers these individuals were customers of, nor whether the customers were actually located in an area where the Commission's maps showed coverage by those carriers.<sup>190</sup> Moreover, AT&T notes that in her written testimony, Ms. Baldwin sought to identify gaps in wireless coverage in AT&T California's service

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<sup>187</sup> Reporter's Transcript, Virtual Status Conference, August 2, 2023, at 31:4 – 33:5.

<sup>188</sup> See, D.24-06-024 at 18. When considering the voice service offerings that might replacement AT&T as a Carrier of Last Resort, the Commission noted that depending on the area in question, a cable company may need to build out its network in order to meet the requirement of offering service to any potential customers that request the service

<sup>189</sup> AT&T Reply Brief, at 28.

<sup>190</sup> AT&T Opening Brief, at 55–56.

territory using statements made by members of the public during the public participation hearings held in this proceeding, noting that Ms. Baldwin relied on statements of six individuals who claimed to lack wireless alternatives and based on where those individuals claimed they reside, attempted to use maps to show that they were within AT&T California's service territory and yet did not have "reliable wireless service."<sup>191</sup> AT&T also asserts that Ms. Baldwin's testimony is contradictory, as she agrees with Dr. Israel's analysis that facilities-based wireline ETCs were able to serve approximately 35,000 of AT&T California's Lifeline customers, but does not agree that AT&T is entitled to relinquish its ETC designation in areas served by wireline ETCs.<sup>192</sup> Finally, AT&T contends that Ms. Baldwin did not dispute any of Dr. Israel's data calculations because Ms. Baldwin failed to check any of Dr. Israel's analysis by performing her own calculations.<sup>193</sup>

AT&T also claims that material changes to Ms. Baldwin's testimony cast doubt on her credibility, citing to her revising her response regarding whether she had communicated with CforAT in preparation for her testimony. Ms. Baldwin answered that she did not recall conversations with CforAT at the April 9, 2024 Evidentiary Hearing, but then at the August 6, 2024 Evidentiary Hearing clarified that she did in fact have conversations with CforAT. AT&T opines the fact that Ms. Baldwin sought to change her testimony after TURN was ordered to produce Ms. Baldwin's draft testimony evidencing those communications casts serious doubt on her credibility.<sup>194</sup>

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<sup>191</sup> AT&T Reply Brief, at 44.

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*, at 45.

We agree with AT&T that the small sample size Ms. Baldwin relies on in her testimony limits the usefulness of her testimony, as does her very minimal analysis. Thus, we afford Ms. Baldwin's testimony no weight. However, this determination should not be viewed as affording no weight to statements made at the PPHs or on the Docket Card in this proceeding, some which this decision summarizes, as these experiences corroborate Commission decisions and orders.

AT&T's statement that Ms. Baldwin sought to change her testimony after TURN was ordered to produce Ms. Baldwin's draft testimony ignores that TURN advised the assigned ALJ of the need to revise Ms. Baldwin's testimony in an April 24, 2024 procedural email, six days before April 30, 2024, when the assigned ALJ issued a ruling on other concurrently outstanding motions to compel in this proceeding, and stayed the proceeding in order to conduct an in-camera review of the material at the center of the discovery dispute between AT&T and TURN, including access to drafts of Ms. Baldwin's testimony. An order compelling TURN to provide drafts of Ms. Baldwin's testimony to AT&T was not issued until July 18, 2024. Thus, AT&T's statement in this regard is not accurate and not relevant to the determination regarding Ms. Baldwin's testimony.

### **13. Phase Two**

As noted in Section 11, certain AT&T wire center regions may meet the standard in 47 U.S.C. Section 214(e)(4). In particular, wire center regions in Los Angeles, Orange, San Diego, San Bernardino, Santa Barbara, Riverside, Ventura, and Kern Counties served by Cox and Time Warner, as well as wire center regions served by Consolidated and ConnectTo.

This Commission will determine these issues during Phase 2 of this proceeding.

#### **14. Impact on ESJ Communities and Public Safety**

The Assigned Commissioner's Scoping Memo and Ruling asks whether there are impacts on public safety and on environmental and social justice communities, including whether this Application impacts the achievement of any of the nine goals of the Commission's Environmental and Social Justice Action Plan.<sup>195</sup>

AT&T claims that ESJ Communities have alternative ETCs to AT&T California's Lifeline Service.<sup>196</sup> Regarding public safety, AT&T asserts that areas prone to natural disasters have alternative ETCs to AT&T California's Lifeline Service and those alternative ETCs also offer public safety capabilities, such as 911.<sup>197</sup>

TURN asserts AT&T's Application implicates multiple ESJ goals and objectives, including:

- Goal 1, consistently integrating equity and access considerations throughout Commission regulatory activities;
- Goal 3, Objective 3.4, extending essential communications services to ESJ communities; and
- Goal 4, creating climate resiliency in ESJ communities.<sup>198</sup>

TURN claims that households in low-income communities would be harmed by AT&T's relinquishment of its ETC status, asserting that Lifeline participants, non-yet-participating Lifeline-eligible customers, and low-income

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<sup>195</sup> Assigned Commissioner's Scoping Memo and Ruling, issued September 20, 2023, at 4. Issue 4 and Issue 5.

<sup>196</sup> AT&T Opening Brief, at 65.

<sup>197</sup> *Id.*, at 66-67.

<sup>198</sup> TURN Opening Brief, at 58.

customers whose economic circumstances may make them Lifeline-eligible in the near future are more likely to live in low-income communities, than in other communities. Further, TURN posits these same customers are less likely to be able to avail themselves of alternatives to AT&T's service, as they are less likely to subscribe to high-speed wireline internet access, which is necessary to enable alternative facilities-based carriers to offer voice (VoIP) service.<sup>199</sup>

TURN also contends that granting AT&T's Application would impact disproportionately people with disabilities and the elderly, noting that "[o]lder adults disproportionately rely on wireline service," and that people with disabilities are disproportionately low-income and also uniquely reliant on landlines for communications, health, and safety needs, as some medical devices need reliable wireline connections to work properly, such as those distributed through the Commission's Deaf and Disabled Telecommunications Program.<sup>200</sup> TURN also claims that granting AT&T's Application would harm rural communities disproportionately because wireless coverage is more likely to be spotty or entirely non-existent in sparsely populated regions that in more densely populated service areas.<sup>201</sup>

CforAT asserts that Dr. Israel's analysis disregards the impact of AT&T's Application on people with disabilities and how those individuals use medical equipment that depend on reliable, affordable phone service, nor does the Application consider the possible incompatibility of customers' security systems, medical equipment, or in-home incarceration devices with VoIP service.<sup>202</sup> In

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<sup>199</sup> *Id.*, at 58-60.

<sup>200</sup> *Id.*, at 64-67.

<sup>201</sup> *Id.*, at 68.

<sup>202</sup> CforAT Opening Brief, at 41.



both instances, CforAT notes that Dr. Israel essentially treated these types of instances as isolated cases, where if an individual demonstrates a medical need or something similar that made it so a proposed replacement ETC was not able to meet their specific need, or they needed a landline, their situation could be treated then.<sup>203</sup> CforAT argues that requiring customers who have disabilities, or law enforcement officers, or formerly incarcerated to disclose their status, as Dr. Israel appears to recommend, would be a violation of that consumer's privacy, in addition to place the burden on consumers, rather than providers, to ensure that they have service.<sup>204</sup>

This decision complies with the Commission's ESJ Action Plan, as it ensures that any AT&T California customers continue to receive their voice service, available in their home, either by retaining their existing AT&T California service, or where the condition in statute has been met, by replacing it with another carrier capable of providing voice service at their home.

## **15. Summary of Public Comment**

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. In total, 1457 public comments were submitted to the Docket Card. The overwhelming majority of commentators appear to oppose AT&T's Application, as they express apprehension over losing their AT&T landline service, with many also concerned

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<sup>203</sup> *Id.*

<sup>204</sup> *Id.*, at 42.

about relying on mobile or VoIP as an alternative to POTS service. Examples include:

- The proposed map submitted by AT&T for relief from landline obligations is absolutely NOT correct for our address on Doe Mill Rd, Forest Ranch. The alleged wireless coverage at this location is unreliable and cannot be depended on in an emergency, such as the Camp Fire, when wireless communications systems were rendered useless. This is a safety and hazard issue, and removing this service will put lives in danger. We are opposed to AT&T's request to withdraw from its telecommunications service, as there are no other alternatives for residents in this area.<sup>205</sup>
- I oppose AT&T disconnecting landline service. We have lived in the canyon for 33 years and during that time, no matter which cell carrier is used (we have AT&T) we do not get consistent service so we must have our land lines. We also have in home offices and need consistent landline service. The situation is compounded by the fact that in the canyon we have fires and floods and need to be able to reach people.<sup>206</sup>
- AT&T/PACIFIC BELL should not be allowed to disconnect from landline service. I rely and use my landline telephone frequently and depend on just picking up the phone and making a call. I live in an area where cell reception isn't that good. It is most frustrating when talking on a cell phone and the person cannot hear you or when the call drops frequently...<sup>207</sup>
- ... My home is in a valley and does not receive any cell phone coverage unless I climb up a hill about 1000 yards. We depend on our landline 95% of the time. I can receive texts when the weather is good. When our power goes out,

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<sup>205</sup> Armen Carlon, Forest Ranch, submitted Apr 28, 2024.

<sup>206</sup> Linda Lorentzen, Los Angeles, submitted June 13, 2024.

<sup>207</sup> Robert Failla, Anderson, submitted May 28, 2024.

which it did about 5 times this winter, we have no internet. VOIP is useless. I use my landline to contact PG&E. Often I am the first one reporting the outage. Cutting landline service will endanger the lives of people who can't call 911 in an emergency, such as a fire, burglary or accident. Internet service is slow here and often goes down. It is not reliable. That is why I have a landline in the first place. Not everyone can afford a generator...<sup>208</sup>

- Our home is located along the Sacramento River in Glenn County. Cell service is spotty at best. This area is completely covered in Blue by the map, indicating that service exists. I have calls dropped all the time along the river and especially along Hwy 45 in Glenn and Colusa counties. Unfortunately T-Mobile, Verizon and others I have tried are even worse than AT&T, so stuck with spotty AT&T service.<sup>209</sup>
- Too many people in Calaveras don't have access to the Internet or can get cell phone coverage at their home. Even if they could access either type of service, they don't necessarily have the income to do so. To remove their low-cost land lines is something they shouldn't have to go through.<sup>210</sup>
- I don't get cell signal where I live. Without a copper line my safety is jeopardized. It is essential...<sup>211</sup>
- ...Wireless service is not infallible, and we need reliable landlines to support communication and notification, in daily life and in emergencies. Landlines are an integral, necessary, vital element AND a critical safety net in the public communication infrastructure. Please do not leave California residents without robust, life-saving, and equitable telecommunications. We need MORE support

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<sup>208</sup> Liz Cooper, Browns Valley, April 28, 2024.

<sup>209</sup> William Carriere, Glenn, submitted April 26, 2024.

<sup>210</sup> Rosemary Brock, Valley Springs, submitted April 12, 2024.

<sup>211</sup> Suzette Jablonski, Castro Valley, submitted April 11, 2024.

and funding to maintain reliable landline service for everyone, not less.<sup>212</sup>

- Please do not allow AT&T to withdraw its Eligible Telecommunications Carrier Designation and leave California residents without adequate, life-saving telecommunications. Living in an area prone to power outages, the landline with a corded phone has been a saving grace for me and my family. Cell phone signal and service is unreliable near me and when an emergency arises - which occur frequently - I rely on my landline to support communication and notification. Landlines are not a relic of the past, but a viable, integral component of ... public communication.<sup>213</sup>
- Please do not leave California residents without adequate, life-saving telecommunications. It is critically important that you do NOT allow AT&T to withdraw its Eligible Telecommunications Carrier Designation. We live in a semi-rural area and rely on our landline for phone communications, since our cell signal is spotty at our house. In a wildfire not long ago and not far from here, the cell tower burned down early in the wildfire, leaving hundreds of residents without a reliable means of obtaining fire information and more importantly, evacuation warnings and orders. It is vital that landlines remain a viable, working system of communication for the public.<sup>214</sup>
- As a rural resident without cell service at my home, the landline is our only option and is a life safety issue. After years of profiting from their monopoly, AT&T is obligated to provide this service. AT&T should not be allowed to abandon landlines without providing a 100% guarantee of continuous service to each and every landline customer, no matter where the customer is located. AT&T must be

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<sup>212</sup> James Manley, Claremont, submitted April 6, 2024.

<sup>213</sup> Stacey Miller, Orange, submitted April 4, 2024.

<sup>214</sup> Susan Rogers, Grass Valley, submitted April 4, 2024.

required to invest in the necessary infrastructure to keep each and every existing landline customer as connected as they have always been.<sup>215</sup>

- Please do not allow AT&T to abandon its Eligible Telecommunications Carrier designation and obligations. In my area, the rural Sierra Nevada mountains, beset with harsh winter weather, extreme wildfire danger, remote access, blizzards, power failures, and unreliable and frequently non-existent cellular service, landlines are crucially essential for safety and preservation of life. Further, the high tourist presence during holiday periods regularly cause the cellular service to become overloaded and inoperable during these busy tourist periods. Add severe storms or wildfires to the huge numbers of tourists with spotty or overloaded cell communications and risk of danger is increased. The major artery to Lake Tahoe, Interstate 80, was totally shut down for 3 days the recent weekend of March 2-3 due to severe storms and people could not travel. Landlines always work despite adverse events and offer higher quality communication. Keep us seniors safe and keep the dependable landlines with affordable Lifeline assistance in place.<sup>216</sup>
- It's very important for those of us in fire prone areas to retain our landlines. Or anyone for that matter. In an emergency - fire earthquake etc. the cell towers go down. Or, the public utilities shut down the power. Cell phones cannot work in those instances. In the Northridge Earthquake my landline was invaluable. I had phone service and was able to use it for emergency. It's bad enough those near and in fire areas get power shutoffs. No modem. No router. No way to charge a phone. We NEED our landlines. Stop pushing for all mobile phones. Additionally the digital divide is real. I live in LA county, in one of the if not the most populous state in the US. And I

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<sup>215</sup> Jeff Fox, Fort Bragg, submitted April 2, 2024.

<sup>216</sup> John Hodges, Tahoma, submitted March 31, 2024.

am affected negatively by the digital divide. NOT ALL AREAS GET CELL SERVICE. Try driving through some of our canyons. How can one report a serious accident? We rely on people having a land line. Take a trip outside of your city office and drive through our hills. Nope. No service.<sup>217</sup>

- Before AT&T is allowed decommission its landline network, it's imperative that they fortify their other technologies in every California municipality in which they have been approved. We live in a typical density neighborhood of single-family houses in the middle of the city of Los Angeles. Despite publishing a coverage map that speciously claims otherwise, AT&T's wireless signal is spotty on most streets around us — and a virtual dead zone on ours. Furthermore, the fiber-optic service they continue to advertise is also unexplainably not available in our section of the LA market. The Commission is strongly urged to compel AT&T to actually deliver the wireless service shown in their coverage map and extend their fiber footprint before approving the retirement of copper lines in California.<sup>218</sup>
- I'm sorry landline users are no longer profitable or convenient for AT&T. Perhaps if their cellular service (that I have paid for the past 20 years) worked consistently in my home, I wouldn't be opposed to them bowing out of the landline market. However, because I cannot receive incoming phone calls on my AT&T connected cell phone, I NEED my landline. I live in the City of Torrance, population 150k +/-, not in a rural area where bad cell service could be expected. I oppose allowing Pacific Bell/ AT&T to relinquish its eligible telecommunications carrier designation.<sup>219</sup>

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<sup>217</sup> Karen Wessinger, Antelope Acres, submitted March 26, 2024.

<sup>218</sup> Gary Brand, Los Angeles, submitted March 26, 2024.

<sup>219</sup> Kathy Anzai, Torrance, submitted March 26, 2024.

- This is an unprecedented move by AT&T to discontinue this service. Wireless eligible telecommunications carriers (ETCs) are not as reliable as wireline ETCs, and AT&T has proffered no evidence that wired ETCs are in all areas that AT&T serves, nor is AT&T transferring the carrier of last resort obligation to the wired ETCs. Unless there is one source of wired telecommunications throughout the entire service area, and that any homeowner can ask for a wired ETC to extend service to their home (whether AT&T, a cable company, or someone else), I urge the CPUC to reject this request...<sup>220</sup>
- Landlines need to be maintained. They are literally a life line. We have spotty cell service and rely on our landline. When the power goes out, there is no wifi calling, and we rely on our landline. I work as a nurse in home health. Many of my patients located in areas with no cell service and no reliable power service rely on their landlines for communication and to call 911. And as housing provider, I'm required by California Civil Code 1941.4 to supply one workable phone jack with inside wiring in good working order.<sup>221</sup>
- ... If landlines were to be lost in Bolinas many residents without cell phones and or service would be unable to receive emergency notifications like evacuation orders or shelter in place orders. Recent storms and fire seasons have heightened the necessity for all forms of communication tools, especially landlines, which have been proven to be the most dependable in disaster times. Cell phones in West Marin are simply not a viable single option and landlines are relied upon and critical to the safety of our residents. Please help us and by denying AT&T's applications.<sup>222</sup>

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<sup>220</sup> Robert Chang, Los Angeles, submitted March 26, 2024.

<sup>221</sup> Brooke Elliott, Santa Cruz, submitted March 23, 2024.

<sup>222</sup> George Krakauer, Bolinas, submitted March 20, 2024.

- I am not in a rural area, but a suburb of Los Angeles. My AT&T cell service is extremely poor -- 1-2 bars -- in my home...<sup>223</sup>
- Please deny these two requests from AT&T. I live in suburban Sacramento County and my AT&T cell service is not reliable...<sup>224</sup>
- We do not get cell phone reception at our house we are in our 70s . Need the landline everyday. Please do not let AT&T stop our service.<sup>225</sup>
- We've had our home phone landline service since 1985. It is our lifeline and critical in case of an emergency. We have poor cell coverage in our area and the service is not reliable so we rely on the landline.<sup>226</sup>
- I urge the CPUC to reject AT&Ts application to exempt them from continuing to provide landline service in this area until such time as a viable alternative is available. We do not have cell service at our house (even though the AT&T coverage map indicates that we do). Without an alternative, we would be without communications in case of an emergency.<sup>227</sup>
- My family's farm is SUPPOSEDLY covered by Verizon wireless service, if you look at Verizon's coverage map. Anyone trying to actually use a cell phone there will be able to tell you the information on the map is patently false.<sup>228</sup>
- ...I can only make a cell call at the top of my driveway which is an eighth of a mile from my front door. Imagine doing that in a medical emergency. We experience heavy

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<sup>223</sup> Jeff Freedman, Chatsworth, submitted March 19, 2024.

<sup>224</sup> David Martasian, Sacramento, submitted March 19, 2024.

<sup>225</sup> John Botfield, Sonora, submitted March 19, 2024.

<sup>226</sup> Don Garstang, Torrance, submitted March 19, 2024.

<sup>227</sup> David Gealey Fort Bragg, submitted March 18, 2024.

<sup>228</sup> M Turner, Eureka, submitted March 17, 2024.



winter storms and have been impacted by wildfires (CZU Lightning complex 2020). The cell towers that AT&T and the CPUC believe we can rely on, are also subject to failure...<sup>229</sup>

- I live in a canyon outside Cupertino. There is absolutely no cell coverage here, I need to drive at least 5 miles to get any signal at all. Of course I can't drive down the road if the road is blocked by trees or mudslides. Yet AT&T marked my area on the map as a place they plan to stop service. Please do not allow AT&T to withdraw from here. We don't have any other option, no cable, no VOIP, nothing else.<sup>230</sup>
- ...It is critical that you understand our situation and limited communication options. There is no cell phone coverage where we live and, we are informed, no prospect of it coming because of the mountainous terrain. There is no cable service either. Our neighborhood looked into paying for cable service to be extended here but the cost, in the hundreds of thousands of dollars, was prohibitive. Maps included as part of ATT's application indicating that we have the option of cell phone or cable service are simply wrong about this. Do not trust them...<sup>231</sup>
- Please do not allow ATT to end landline service. We live in a rural, heavily forested part of Mendocino County where there is almost no cell phone service. The maps from the different companies all show our area is covered by cell service, but the reality is quite different. We tried adding an antenna to our roof and a repeater in the house and still do not get cell service. We can only get internet through satellite, which also means we can only get VOIP through satellite.<sup>232</sup>

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<sup>229</sup> Patricia Velligan, Pescadero, February 26, 2024.

<sup>230</sup> Eben Haber, Cupertino, submitted February 10, 2024.

<sup>231</sup> Philip McManus, Bonny Doon, submitted February 14, 2024.

<sup>232</sup> Geri Winters, Albion, submitted February 11, 2024.

- AT&T boasts wide-reaching cell service in Mendocino County, yet paradoxically seeks to abandon ALL landline service. This decision jeopardizes the safety and communication needs of countless residents, especially during emergencies and power outages. The reality is, Mendocino County's rugged landscape and vast areas leave significant portions with NO cell service. This leaves many, particularly rural residents, reliant on landlines as their lifeline for essential calls, including 911. Power outages, common in the region, further cripple cell towers, rendering them useless. Therefore, AT&T's claim of adequate cell coverage rings hollow. We urge the CPUC to thoroughly reassess AT&T's coverage map, ensuring it accurately reflects the patchy and unreliable reality experienced by Mendocino County residents. Allowing AT&T to disconnect landlines without guaranteed comprehensive cell coverage is reckless and potentially life-threatening. We demand the CPUC prioritize public safety and block AT&T's landline termination until true, reliable cell service reaches every corner of Mendocino County.<sup>233</sup>
- We must object strongly to AT&T's application. For many years AT&T has made it difficult to acquire a land line if you are new to the area or have an existing landline repaired. They have not been good stewards of their responsibility. They have already told new area residents that they will not install a landline in their house. For the following reasons, their application should not be approved:
  1. Cell phone service is spotty at best in the areas outlined on the map sent to residents by the PUC. Without a landline, in emergencies residents would not be able to call for help. This is a major safety and health concern. El Dorado County has an abundance of retired people

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<sup>233</sup> David Wylie, Albion, submitted February 7, 2024.

who rely on their landlines to communicate with fire departments, doctors, caretakers, and neighbors...<sup>234</sup>

- ... From AT&T the information included a map of the 95648 USPS Zip Code, from which AT&T would like to be allowed to remove themselves from serving their current obligations! AT&T's reasoning is that this area is served by cellular reception. When looking at the map provided, I know from living in this area more than 30 years that almost 1/3rd of this area has poor to no cellular reception! In fact, even AT&T's landline communication system in this area is somewhat unreliable.<sup>235</sup>
- My wife and I are retired and live in our mountain area and depend on our AT&T landline. Even though the state cell phone service map shows we have cell service, we do not! There are no cell towers anywhere close to us. If the power goes out, like it has done, if you don't have a generator, you have no way to contact emergency services. Please don't let AT&T shut down our phone service.<sup>236</sup>
- As a 77 year old senior, my landline has served as my most reliable communication tool, unlike cell and internet service which is spotty in the rural area where I live...<sup>237</sup>

A small number of commentors, not more than approximately two or three percent of all comments, appear to support AT&T Application, though also through lens of copper retirement. Examples of these comments include:

- As small businesses embrace innovation and digital transformation, it's crucial for policymakers and service providers to prioritize investing in modern infrastructure that supports reliable communication for all residents, regardless of their location or access to technology. Regardless of technological advancements, everyone

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<sup>234</sup> Gary & Joyce Pogue, Shingle Springs, submitted February 6, 2024.

<sup>235</sup> Eric Thompson, Lincoln, submitted February 2, 2024.

<sup>236</sup> Jeffrey Ross, Caliente, submitted February 1, 2024.

<sup>237</sup> Gail Jones, Salinas, submitted April 11, 2024.

should have the ability to call 911 in times of emergency. The reliance on copper networks, which have been around for over 50 years, highlights the urgent need for alternative means to ensure that those without internet or wireless access can still connect and receive assistance promptly.<sup>238</sup>

- In 2024, everyone needs access to reliable, high-speed internet. The copper network is outdated and is limited in its ability to best serve the small business community and the public with regard to economic growth. This is of the utmost importance to National ACE as small businesses are a mainstay for both the Asian American and Pacific Islander communities and the greater United States. Our community and all communities should have reliable access as the internet is no longer a want, but a need to succeed in life.<sup>239</sup>

## 16. Conclusion

This decision denies, in part, AT&T's Application to withdraw as an eligible telecommunications carrier (ETC) throughout its service territory in California, which is comprised of 616 wire centers. Most AT&T wire center regions do not meet the condition for withdrawal in 47 U.S.C. Section 214(e)(4) that "all customers" served by the relinquishing carrier will continue to be served by another ETC. For wire center regions that may still meet the condition in statute, in Phase Two of this proceeding, the Commission will investigate AT&T wire center regions currently served by Cox California Telecom, LLC and Time Warner Cable Information Services in Los Angeles Orange, San Diego, San Bernardino, Santa Barbara, Riverside, Ventura, and Kern Counties, as well as wire center regions currently served by ConnectTo and Consolidated.

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<sup>238</sup> Chris Takahashi, San Bernardino, submitted March 19, 2024.

<sup>239</sup> Randy Masada, El Monte, submitted March 19, 2024.

AT&T received two opportunities to update its Application so that it was complete and accurate. First, on July 21, 2023, the assigned ALJ ordered AT&T to update its analysis to show the gaps in service availability for ETCs that are wireless resellers, or to remove the territories of ETCs that are wireless resellers. Second, the accuracy of AT&T's representations regarding ConnectTo's service territory was raised by the assigned ALJ at a December 13, 2023 Status Conference, where the assigned ALJ instructed AT&T to provide an accurate Application. AT&T failed to take advantage of these opportunities, and the record contains possible evidence for concern that AT&T may not have complied with either of these orders, and AT&T and its attorneys may have misled the Commission.

#### **17. Procedural Matters**

This decision affirms all rulings made by the assigned ALJ and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

#### **18. Comments on Proposed Decision**

The proposed decision of ALJ Thomas J. Glegola ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

#### **19. Assignment of Proceeding**

John Reynolds is the assigned Commissioner and Thomas J. Glegola is the assigned ALJ and presiding officer in this proceeding.

#### **Findings of Fact**

1. An eligible telecommunications carrier (ETC) is a telecommunications services provider created pursuant to Section 214(e)(2) of the federal Communications Act of 1934, as amended by the 1996 Act. 47 U.S.C. Section

254(e) provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support – federal Lifeline and high-cost support.

2. The Commission designated AT&T as an ETC in December 1997, eligible for both federal Lifeline subsidies and federal high-cost support.

3. AT&T seeks to withdraw its ETC designation in all 616 wire centers on a wire center-by-wire center basis.

4. Wire center regions are designed to approximate combinations of contiguous census block groups.

5. Pursuant to 47 U.S.C. Section 214(e)(4), this Commission has authority to review ETC relinquishment applications.

6. Granting this Application would eliminate AT&T’s regulatory designation as an ETC under federal law but would not change AT&T’s service requirements as a carrier of last resort (COLR).

7. 47 U.S.C. Section 214(e)(4) requires that “all customers served by the relinquishing carrier” will continue to be served by another ETC.

8. 47 U.S.C. Section 214(e)(4) allows the Commission to grant replacement ETCs up to one year to purchase or construct adequate facilities.

9. AT&T offers wireline voice services, both POTS and VoIP.

10. The following ETCs offer service in some areas served by AT&T’s 616 wire centers:

- Air Voice Wireless, LLC dba AirTalk Wireless;
- American Broadband and Telecommunication Company LLC dba Your Call Wireless;
- AmeriMex Communications Corp dba SafetyNet Wireless;
- Boomerang Wireless, LLC dba EnTouch Wireless;
- ConnectTo Communications, Inc.;

- Consolidated Communications Enterprise Services, Inc. fka SureWest TeleVideo dba SureWest Broadband;
- Cox California Telecom, LLC dba Cox Communications and Cox Business Services;
- Global Connection Inc. of America dba Stand Up Wireless;
- IM Telecom, LLC dba Infiniti Mobile;
- i-wireless, LLC dba Access Wireless;
- TAG Mobile, LLC;
- Telrite Corp. dba Life Wireless;
- TruConnect Communications, Inc. dba Surelink Mobile; fka Telscape Communications, Inc.;
- Time Warner Cable Information Services dba Time Warner Cable;
- TracFone Wireless, Inc. dba SafeLink; Total Wireless, Straight Talk Wireless, Net10 Wireless, Page Plus, Simple Mobile, and Go Smart; and
- Assurance Wireless USA, L.P. dba Assurance Wireless; fka Virgin Mobile USA, L.P.

11. ConnectTo Communications, Consolidated Communications, Cox Communications, and Time Warner Cable are wireline ETCs. The remaining ETCs listed in Finding of Fact 10 offer wireless voice service.

12. Except for Cox Communications and Time Warner Cable, the ETCs listed in Finding of Fact 10 are Lifeline-Only ETCs.

13. Cox Communications and Time Warner Cable are Lifeline-Only ETCs in certain portions of their service territories and Full ETCs in certain portions of their service territories.

14. Under 47 U.S.C. Section 214 (e)(3): “If no common carrier will provide the services that are supported by Federal universal service support mechanisms... to an unserved community... a State commission, with respect to intrastate

services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof. Any carrier or carriers ordered to provide such service... shall be designated as an eligible telecommunications carrier for that community or portion thereof.”

15. The FCC interprets 47 U.S.C. Section 214(e) to permit this Commission to replace Full ETCs, such as AT&T, with Full ETCs.

16. In its 2016 Lifeline Order, the FCC chose to forbear from requiring Full ETCs to offer voice service where the following conditions are met:

- a. 51 percent of Lifeline subscribers in a county are obtaining Lifeline broadband Internet access service;
- b. there are at least three other providers of Lifeline BIAS that each serve at least five percent of the Lifeline broadband subscribers in that county; and
- c. the ETC does not actually receive federal high-cost universal service support.

17. As of August 2024, the FCC has forborne from requiring Full ETCs to offer voice service in their service territories in all counties in California except Trinity and Sierra Counties.

18. The FCC’s interpretation of 47 U.S.C. Section 214(e), discussed in Findings of Fact 15 and 16, governs all applications of that provision and is binding on this Commission.

19. The testimony of AT&T’s expert witness, Dr. Mark Israel, is not credible.

20. The testimony of TURN’s expert witness, Ms. Susan Baldwin, is not credible.

21. AT&T submitted the locations of its Lifeline customers, roughly ten to twenty percent of its total residential voice customers, instead of all customers.



22. AT&T and its attorneys stated repeatedly that ConnectTo can replace AT&T throughout AT&T's service territory.

23. ConnectTo's service area is confined to fewer than ten AT&T wire centers in Los Angeles County where ConnectTo is collocated with AT&T facilities.

24. Coverage areas in the FCC's Mobile Broadband Map reflect outdoor coverage, not indoor coverage.

25. Due to limitations of wireless signal propagation, the Commission repeatedly has expressed reservations about the ability of wireless ETCs to serve their entire approved service territory.

26. 47 U.S.C. S 332 (c)(3)(A) reads, in part: "Notwithstanding sections 152(b) and 221(b) of this title, no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services."

27. Cox and Time Warner are facilities-based wireline voice providers that own their own facilities.

28. The networks of cable and telephone companies may not precisely overlap.

29. The record does not include the locations of facilities owned and operated by Cox and Time Warner by serviceable address.

### **Conclusions of Law**

1. It is reasonable to interpret the 47 U.S.C. Section 214(e)(4) requirement that "all customers served by the relinquishing carrier" will continue to be served by another ETC to mean all residential customers.

2. It is appropriate to review this Application for relinquishment on a wire center-by-wire center basis.

3. The testimony of AT&T's Expert Witness, Dr. Mark Israel, should be afforded no weight.

4. The testimony of TURN's Expert Witness, Ms. Susan Baldwin, should be afforded no weight.

5. The evidence in the record indicates that AT&T has not met the burden of proving that its proposed wireless replacement ETCs have the practical ability to serve current customers in the relinquishment area at the individual customer level.

6. This Commission does not have authority to order the proposed wireless replacement ETCs to serve AT&T customers.

7. The evidence in the record indicates that cable ETCs may have the practical ability to serve some current customers in the relinquishment area at the individual customer level, though it is not clear where or whether the cable ETCs serve entire AT&T wire center regions or could within one year.

8. 47 U.S.C. Section 214 (e)(3), 47 U.S.C. Section 332 (c)(3) (A), 47 U.S.C. Section 153 (11) and 47 U.S.C. Section 153 (51) limit the Commission's ability to order certain companies to serve as ETCs and certain ETCs to serve.

9. This decision does not negatively impact public safety.

10. This decision does not negatively impact environmental and social justice communities.

11. There is sufficient evidence for concern that AT&T and its attorneys may have misled the Commission and reason to issue an Order to Show Cause.

## **O R D E R**

**IT IS ORDERED** that:

1. The Application of Pacific Bell Telephone Company, dba AT&T California (AT&T) to withdraw as an eligible telecommunications carrier (ETC) for its 616

wire centers in California is denied, in part. In Phase Two of this proceeding, the California Public Utilities Commission will investigate AT&T wire center regions currently served by Cox California Telecom, LLC and Time Warner Cable Information Services in Los Angeles Orange, San Diego, San Bernardino, Santa Barbara, Riverside, Ventura, and Kern Counties, as well as wire center regions currently served by ConnectTo Communications, Inc. and Consolidated Communications Enterprise Services, Inc.

2. Application 23-03-002 remains open.

This order is effective today.

Dated \_\_\_\_\_, 2025, at San Francisco, California