

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA



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Application of Pacific Bell Telephone
Company D/B/A AT&T California
(U1001C) to Relinquish its Eligible
Telecommunications Carrier Designation

Application 23-03-002
(Filed March 3, 2023)

**CENTER FOR ACCESSIBLE TECHNOLOGY RESPONSE TO PACIFIC BELL
COMPANY D/B/A AT&T CALIFORNIA'S (U 1001 C) APPLICATION FOR
REHEARING OF DECISION 25-12-004**

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I. INTRODUCTION

In accordance with Rule 16.1(d) of the Commission's Rules of Practice and Procedure, Center for Accessible Technology (CforAT) timely submits this Response to the January 5, 2026 Pacific Bell Telephone Company D/B/A AT&T California's (U 1001 C) Application for Rehearing of Decision 25-12-004 (Application for Rehearing).

The Application for Rehearing is nothing more than the carrier's written expression of its frustration that the Commission has declined to defer to AT&T on matters of the Commission's authority, factual determinations, or interpretations of law. The Application for Rehearing does not demonstrate (or even meaningfully attempt to demonstrate) that D.25-12-004 contains legal errors. Additionally, the Application for Rehearing relies on grandiose, and demonstrably false, claims that implementation of the provisions of D.25-12-004 would somehow make ETC obligations for wireless carriers unenforceable¹ or create an impossible standard.² D.25-12-004 fundamentally does nothing more than determine that there was insufficient record evidence to support approval of AT&T's request to relinquish its ETC status, and that this determination was supported by substantial evidence. Accordingly, as discussed below, the Commission should either deny the Application for Rehearing or grant it for the limited purpose of considering sanctions on AT&T.

II. DISCUSSION

The Application for Rehearing is lengthy, primarily as a result of AT&T's repetition of arguments previously presented throughout the proceeding and resoundingly rejected in D.25-12-004. However, despite that length, the Application for Rehearing fundamentally argues that

¹ Application for Rehearing at p. 16

² Application for Rehearing at p. 36.

the Commission is *required* to adopt a number of faulty assumptions that served as the basis for AT&T's testimony and pleadings in this proceeding. The most critical (and perhaps most flawed) of these assumptions stems from AT&T's mischaracterization of the data that ETCs provide to the Commission about where they commit to offering LifeLine service, often referred to as that ETC's "approved service territory."³

Virtually the entirety of the Application for Rehearing's arguments rest on the assumption that the legal designation of an ETC's service area conclusively establishes that service is available to all customers in that service.⁴ D.25-12-004 notes that "[i]n 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."⁵ However, the Decision then explains that "[d]espite the repeated contentions of AT&T, its attorneys, and its expert witness, 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."⁶

AT&T's entire case in chief rests on the assumption that maps of providers' designated coverage areas accurately represent where those providers' can offer service, and its reasoning is not based on any analysis of actual service but rather on the fact that the Commission instructs providers to submit data that reflects actual coverage. However, this assumption is demonstrably flawed. The Commission's directive that providers are supposed to submit accurate data does not necessarily mean that those providers will submit accurate data. Beyond the statement that the Commission expects accuracy, there is no evidence in the record that the maps are accurate,

³ See D.25-12-004 at p. 29.

⁴ Application for Rehearing at p. 9.

⁵ D.25-12-004 at p. 66.

⁶ D.25-12-004 at p. 29.

and there is ample evidence in the record that the maps relied upon by AT&T do not accurately reflect locations where those providers are able to actually offer service.

AT&T has provided no legal authority or evidence supporting its claim that the Commission's statement of its expectations of accuracy should be given weight over evidence of inaccuracy, and D.25-12-004 properly rejected that claim, just as D.25-12-004 properly rejected AT&T's reliance on other unfounded assumptions.⁷ The Application for Rehearing similarly provides no new legal authority or factual information supporting AT&T's claim. Accordingly, the Commission must reject the Application.

A. The Commission Should Reject AT&T's Improper Attempts to Reframe D.25-12-004's Determination that the Record of this Proceeding is Insufficient to Justify Approving the Application.

As noted above, the Application for Rehearing simply repeats legal arguments made by AT&T throughout this proceeding, all of which were rejected by D.25-12-004. Accordingly, CforAT will not repeat our responses to those arguments here and instead respectfully refers the Commission to our prior briefing in this proceeding. However, we do wish to address the framing of those arguments in the Application for Rehearing, which is a master class in burying the lede. The Application for rehearing begins by incorrectly arguing that D.25-12-004's interpretation of 47 U.S.C. § 214(e) (the federal statute governing relinquishment of ETC status) was improper.⁸ It then incorrectly argues that D.25-12-004 failed to properly apply factual findings to AT&T's preferred interpretations of § 214(e),⁹ and then finally argues that D.25-12-

⁷ The other assumptions include an assertion that an analysis of the impacts of relinquishment on only AT&T LifeLine customers is sufficient to make conclusions about the impact on all AT&T customers. (D.25-12-004 at p 38; *see also*, D.25-12-004 at pp. 3 (“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.)).

⁸ Application for Rehearing at pp. 5 et. seq.

⁹ Application for Rehearing at pp. 20 et. seq.

004 was arbitrary and capricious.¹⁰ In using this framing, the Application for Rehearing carefully avoids meaningful discussion of the fundamental issue in this proceeding, namely the lack of record evidence supporting AT&T's Application for relinquishment of its ETC status.

1. D.25-12-004 Correctly Determines that Dr. Israel's Testimony was Not Credible.

D.25-12-004 made the express factual finding that AT&T's only witness, Dr. Mark Israel, was not credible,¹¹ and, as a result of that finding, afforded Dr. Israel's testimony no weight.¹² As one part of its review of Dr. Israel's testimony, D.25-12-004 identifies flaws in Dr. Israel's analysis, including a determination that the analysis was deficient because it only considered LifeLine customers (as opposed to all affected AT&T customers)¹³ and that it assumed that the legal *requirement* that ETCs serve everyone in their service territory was evidence of alternative providers' *actual ability* to serve every customer in their service territory.¹⁴ While AT&T disagrees with these findings from D.25-12-004, these are not the only flaws that D.25-12-004 identifies in Dr. Israel's testimony.

As D.25-12-004 notes, Dr. Israel appears to have done no independent research to confirm the data and assumptions he and his organization were provided by AT&T,¹⁵ was not aware that the Commission ordered AT&T to update Dr. Israel's analysis regarding wireless ETCs,¹⁶ "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,"¹⁷ and

¹⁰ Application for Rehearing at pp. 30 et. seq.

¹¹ D.25-12-004 at p. 93, Finding of Fact 19.

¹² D.25-12-004 at p. 3.

¹³ D.25-12-004 at p. 93, Finding of Fact 21.

¹⁴ D.25-12-004 at p. 93.

¹⁵ See D.25-12-004 at pp. 39, 47.

¹⁶ D.25-12-004 at p. 40.

¹⁷ D.25-12-004 at p. 45.

provided conclusions that “neither contemplate nor respond to decisions from other state commissions.”¹⁸ As a result, D.25-12-004 finds that:

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.¹⁹

D.25-12-004 further finds that:

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.”²⁰

The Application for Rehearing avoids addressing these issues completely, instead accusing the Commission of error because the Commission did not accept Dr. Israel’s assumptions. The Application for Rehearing does not address D.25-12-004’s finding that Dr. Israel failed to perform any independent research and appears to have relied only on data and assumptions provided by AT&T when making his conclusions. Similarly, the Application for Rehearing does not address D.25-12-004’s finding that as a result of Dr. Israel’s lack of credibility, there is not sufficient record evidence to support a finding that AT&T is entitled to relinquish its ETC status.

¹⁸ D.25-12-004 at p. 49.

¹⁹ D.25-12-004 at p. 50.

²⁰ D.25-12-004 at p. 60.

2. Contrary to the Application for Rehearing's Misrepresentations, Dr. Israel's Lack of Credibility Renders the Overwhelming Majority of AT&T's Exhibits Unreliable.

The Application for Rehearing attempts to rehabilitate Dr. Israel's credibility, arguing that D.25-12-004's finding that Dr. Israel's testimony was not credible is wrong.²¹ However, this effort suffers from the same deficiencies that have plagued AT&T's arguments throughout this proceeding. For example, the Application for Rehearing argues that "the Decision discredits Dr. Israel for assuming that alternative ETCs must serve their designated areas based on a plain reading of Section 214(e) and the Commission's designation orders"²² AT&T is correct that this assumption correctly reflects federal and state law. However, D.25-12-004 did not find that this particular assumption implicated Dr. Israel's credibility. Rather, it found that Dr. Israel conflated the legal obligation of alternative ETCs to serve their designated areas with their actual ability to serve those areas.²³ D.25-12-004 did not find that Dr. Israel's understanding of the maps showing various ETCs' designated territory was incorrect, but rather faulted his use of these maps alone as a basis for identifying locations where telephone service is available.²⁴ The Application for Rehearing makes similar erroneous claims about Dr. Israel's assumptions about wireless coverage:²⁵

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.²⁶

²¹ Application for Rehearing at p. 26.

²² Application for Rehearing at p. 26.

²³ D.25-12-004 at p. 29.

²⁴ D.25-12-004 at p. 29.

²⁵ Application for Rehearing at p. 28; See D.25-12-004 at p. 61 ("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.")

²⁶ D.25-12-004 at p.

The Application for Rehearing consistently mischaracterizes D.25-12-004's grounds for finding Dr. Israel's testimony not credible in an attempt to center Dr. Israel's reasonable assumptions and hide Dr. Israel's unreasonable assumptions. AT&T's logic is both backwards (i.e., it treats that Dr. Israel's testimony as credible because it supports AT&T's outcome, rather than arguing that Dr. Israel's testimony is credible and therefore so are his conclusions) and circular (i.e., that because Dr. Israel's made certain assumptions, which just so happen to support AT&T's requested relief, the Commission is somehow required to adopt those assumptions as legal standards). Not only is this logic flawed, but it is also further indication that Dr. Israel drafted his analysis to support AT&T's preferred outcome, rather than performing an independent analysis to reach an objective, data-driven outcome.

D.25-12-004 properly finds that Dr. Israel was not a credible witness on multiple grounds, including his faulty assumptions, his insufficiently comprehensive analysis, and his lack of subject matter expertise on the issues where he claimed authority.²⁷ AT&T's argument that the Commission has no lawful basis to disregard Dr. Israel's testimony²⁸ is flatly wrong. Dr. Israel's demeanor while testifying and the manner in which he testified, the character of his testimony, his capacity to properly understand the subject matter about which he testified, his character, the existence of bias, interest, or other motive, and his incorrect factual assumptions and conclusions are all lawful bases for disregarding Dr. Israel's testimony.²⁹ Additionally, even if the Commission gave Dr. Israel's testimony some weight, there is substantial evidence in the record contradicting Dr. Israel's analysis and disproving his conclusions. Accordingly, D.25-12-004's conclusions are reasonable, and do not constitute legal error.

²⁷ D.25-12004 at p. 50.

²⁸ Application for Rehearing at p. 26.

²⁹ Cal. Evid. Code § 780.

D.25-12-004 further notes that Dr. Israel was the sponsor of almost all of AT&T's exhibits, and Dr. Israel's lack of credibility renders those exhibits unreliable.³⁰ As a result, there is simply insufficient record evidence to conclude that AT&T's withdrawal as an ETC would meet the requirements of 47 U.S.C. § 214(e). This fact alone is sufficient grounds for D.25-12-004 to deny the original Application, because, based on the record, the Commission cannot determine whether there are alternate ETCs available to serve former AT&T customers. Similarly, the record is insufficient to justify AT&T's spurious claims that D.25-12-004 creates a new or different legal standard that is contrary to 47 U.S.C § 214(e)(4),³¹ that the Commission rejects wireless ETCs as possible replacement ETCs,³² that ConnectTo is capable of serving all customers within its service territory,³³ or that the Commission has created a standard for relinquishment that is impossible for providers to meet.³⁴ Similarly, the record does not contain sufficient information to support AT&T's request for a "targeted regulatory solutions" for locations where customers cannot obtain alternate service, because there is insufficient evidence in the record to demonstrate that any particular AT&T customer would be able to obtain alternate service.

Given the paucity of the record on behalf of the Applicants and the substantial evidence in the record showing that AT&T's testimony and exhibits did not provide evidence about the actual availability of alternative providers, AT&T did not meet its burden of demonstrating that the areas where it sought to relinquish its ETC status are "served by more than one ETC."³⁵

³⁰ D.25-12-004 at p. 50.

³¹ Application for Rehearing at p. 8.

³² Application for Rehearing at pp. 14-15.

³³ Application for Rehearing at p. 19.

³⁴ Application for Rehearing at p. 29.

³⁵ Application for Rehearing at p. 9 (internal citations omitted).

Accordingly, the Commission should deny the Application for Rehearing, just as it denied the initial Application.

B. The Commission's Refusal to Accept AT&T's Flawed Logic is Not Legal Error.

As discussed above, the Application for Rehearing argues that the Commission committed legal error by refusing to adopt a number of AT&T's assumptions. However, just as it misrepresents Dr. Israel's faulty assumptions, the Application for Rehearing misrepresents AT&T's flawed assumptions about the sufficiency of its evidence. Again, the basis for the Application for Rehearing is AT&T's faulty argument that the designation of an ETC as a service provider in a location is conclusive evidence that the alternative providers have the actual ability to serve every customer in their service territory. D.25-12-004 properly relied on the extensive evidence in the record showing that the maps used by AT&T do *not* always accurately reflect areas where those providers can actually offer service and properly rejected AT&T's argument.

California law requires that an "application for a rehearing shall set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful. No corporation or person shall in any court urge or rely on any ground not so set forth in the application."³⁶ The Commission's rules state that "[a]pplications for rehearing shall set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous, and must make specific references to the record or law," and that "[t]he purpose of an application for rehearing is to alert the Commission to a legal error, so that the Commission may correct it expeditiously."³⁷ While the Application does make

³⁶ Cal. Pub. Util. Code § 1732.

³⁷ Cal. Pub. Util. Comm'n, Rules of Practice and Procedure, Rule 16.1(c).

specific references to the record and to law, none of those references are to specific statutory or case law that supports AT&T's position. The Application for Rehearing does not identify any legal error. Rather, it asks the Commission to grant rehearing because AT&T is unhappy with the outcome. However, a party's dissatisfaction is not grounds for granting rehearing.

C. The Commission Should Reject the Application for Rehearing's Erroneous Claims about The Commission's "Best-Available Evidence" Standard.

The Application for Rehearing provides a unique reading of the "best evidence" standard to argue that D.25-12-004 committed legal error because it did not accept AT&T's flawed evidence as the "best evidence" and therefore grant the original Application. Based on the Commission's correct determination to afford no weight to Dr. Israel's analysis, the mapping exercise conducted by AT&T is not part of the evidentiary record. Accordingly, AT&T's argument that these maps are the "best evidence" is not only wrong, but irrelevant.

Additionally, even if Commission did consider the mapping data provided by AT&T, cases cited by AT&T about the best evidence standard all appear to relate to the relative weight of conflicting evidence, i.e., determining which calculations, data, or studies offered by the parties are most reliable.³⁸ However, the Application for Rehearing cites no Commission decision, case or statute evaluating how to apply appropriate analysis when the offered evidence is not sufficient to support a request for action through an application. Even if AT&T's proffered mapping data was the best evidence produced in the proceeding, D.25-12-004 correctly explains at length that those maps are not sufficient to prove that customers will continue to be served. The Commission should reject the Application for Rehearing's distorted characterization of the best evidence standard.

³⁸ See Application for Rehearing at p. 21, fn. 74.

D. The Commission Should Reject Claims that D.25-120-004 was Required to Address All of AT&T's Arguments.

The Application for Rehearing claims that D.25-12-004 errs by failing to “acknowledge, let alone respond, to various arguments that AT&T California raised and that undercut key premises in the Decision.”³⁹ The Application further complains that:

“In its post-hearing briefing, AT&T California highlighted numerous legal and factual errors in other parties’ arguments. When the proposed decision failed to address many of these points, AT&T California raised them again in its comments, its reply comments, and ex parte letters. Yet, the Decision rubberstamped the proposed decision without responding to AT&T California’s arguments. That lack of explanation constitutes arbitrary agency action.”

Once again, the Application for Rehearing’s claims are more properly a complaint about the Commission’s rejection of AT&T’s arguments than a well-plead allegation of legal error. AT&T has no right to demand that the Commission address every point or argument that AT&T raised. The Commission is not required “to make express legal and factual findings for each and every issue or sub-issue raised by a party. Rather, [Public Utilities Code] Section 1705 only requires sufficient findings and conclusions in order to assist the Court in ascertaining the principles relied upon by the Commission and assist the parties in preparing for rehearing or court review.”⁴⁰ D.25-12-004 supports each of its findings with substantial evidence, and the Application for Rehearing makes clear that while AT&T is unhappy with the Commission’s reasoning, AT&T understands that reasoning. Accordingly, the Commission should reject the Application for Rehearing’s claims that the Commission’s failure to address every argument made by AT&T is legal error.

³⁹ Application for Rehearing at p. 4.

⁴⁰ D.21-08-023 at p. 10 (Aug. 12, 2021), citing *Clean Energy Fuels Corp. v. Pub. Util. Comm’n.*, 227 Cal.App.4th 641 at pp. 653, 659 (2014).

E. If the Commission Does Grant Rehearing, It Should Do So for the Limited Purpose of Considering Sanctions Against AT&T California, AT&T's Outside Counsel, and Any Related AT&T Affiliates.⁴¹

The Application for Rehearing takes issue with D.25-12-004's finding that AT&T may have misled the Commission, and that AT&T may be subject to a show-cause order for failing to withdraw arguments and evidence submitted in support of the original application.⁴² In support of this argument, the Application for Rehearing cites Commission rules regarding sanctioning individual attorneys,⁴³ but is silent as to sanctions on parties generally. The Application for Rehearing argues that individual sanctions may only be imposed against an attorney if an individual provides a signed certification "that to the signer's best knowledge, information, and belief, formed after reasonable inquiry, the facts are true as stated; that any legal contentions are warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; that the document is not tendered for any improper purpose; and that the signer has full power and authority to sign the document."⁴⁴ Consistent with the Application for Rehearing's other claims, this claim is beside the point. Additionally, the specific rule cited by the Application for Rehearing is narrowly limited to the Commission's signature requirements for documents. Nothing limits the Commission from imposing sanctions against attorneys for other violations of the Commission's rules.

In comments on the Proposed Decision, CforAT argued that there was sufficient evidence to justify the Commission's issuing an order to show cause why it should not be sanctioned for

⁴¹ While AT&T California is a party of record in this proceeding, attorneys from at least one AT&T affiliate, AT&T Services, provided legal counsel and administrative support to AT&T California throughout this proceeding. The Commission may wish to investigate whether personnel from those affiliates should be subject to sanctions.

⁴² Application for Rehearing at p. 38.

⁴³ Application for Rehearing at p. 38.

⁴⁴ Application for Rehearing at pp. 38-39, citing Cal. Pub. Util. Comm'n Rules of Practice and Procedure, Rule 1.8(f).

its behavior in this proceeding. The Application for Rehearing, which includes material misstatements and mischaracterizations about the Commission's reasoning in D.25-12-004, only supports this recommendation. If the Commission does decide to grant rehearing, it should do so for the limited basis of determining what sanctions, if any, to impose on AT&T California.

III. CONCLUSION

A party's dissatisfaction with a Commission's Decision is not grounds for granting an application for rehearing. For the reasons set forth above, the Commission should deny the Application for Rehearing.

Respectfully submitted,
January 20, 2026

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