

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



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Order Instituting Rulemaking Proceeding to
Consider Changes to Licensing Status and
Obligations of Interconnected Voice over Internet
Protocol Carriers.

Rulemaking 22-08-008
(Filed August 25, 2022)

**COMMENTS OF PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T CALIFORNIA
(U 1001 C) AND AT&T ENTERPRISES, LLC (U 5002 C) ON THE PROPOSED DECISION
UPDATING REGULATORY FRAMEWORK FOR TELEPHONE CORPORATIONS
PROVIDING INTERCONNECTED VOICE OVER INTERNET PROTOCOL SERVICE AND
CLOSING PROCEEDING**

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Dated: May 28, 2026

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SUBJECT INDEX

1. The Commission should modify:
 - a. the Proposed Decision to conclude that providers holding general operating authority pursuant to a statutory franchise are not required to file a Tier 1 advice letter to add the DVF utility type or file a CPCN application to expand their authority to include fixed iVoIP service, as their existing authority encompasses fixed iVoIP service; and
 - b. the proposed findings of fact and conclusions of law as provided in Appendix A.

2. Alternatively, and at a minimum, the Commission should conclude that noncompliance by statutory franchise holders with the Tier 1 advice letter requirement to add the DVF utility type will neither impair their vested, statewide franchise rights nor trigger a requirement to file a CPCN application to “expand” authority they already possess.

Pursuant to Rule 14.3 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure, Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) and AT&T Enterprises, LLC (U 5002 C) (collectively, AT&T) respectfully submit these comments on the Proposed Decision Updating Regulatory Framework for Telephone Corporations Providing Interconnected Voice Over Internet Protocol Service and Closing Proceeding (Proposed Decision), issued May 8, 2026.¹

I. INTRODUCTION AND SUMMARY

The Proposed Decision purports to resolve certain implementation and technical issues associated with the regulatory framework established by Decision 24-11-003,² including the application of the Digital Voice Fixed (DVF) utility type to existing operating authority.³ These comments address the Proposed Decision’s requirement that providers with vested, general operating authority—namely, providers holding a statutory franchise to provide telephone service that predates both the Public Utilities Act and the requirement to obtain a certificate of public convenience and necessity (CPCN) from the Commission—must timely file a Tier 1 advice letter to add the DVF utility type to their existing operating authority with noncompliance resulting in the requirement that the provider file a CPCN application to “expand” its operating

¹ *Proposed Decision Updating Regulatory Framework for Telephone Corporations Providing Interconnected Voice Over Internet Protocol Service and Closing Proceeding* (Proposed Decision), Rulemaking (R.) 22-08-008 (May 8, 2026).

² D.24-11-003, *Decision Establishing Regulatory Framework for Telephone Corporations Providing Interconnected Voice Over Internet Protocol Service*, R.22-08-008 (Nov. 12, 2024).

³ Proposed Decision at 2; *see also Assigned Commissioner’s Amended Scoping Memo and Ruling*, R.22-08-008 at 4 (April 3, 2025); *see also* D.24-11-003 at 96 (providing that some parties raised issues regarding “whether existing wireline voice service providers offering interconnected VoIP service and granted operating authority pursuant to Section 1001 or Section 1013 prior to August 2022 should append to their existing utility type designations the DVF utility type designation”).

authority.⁴ These requirements constitute legal error because (1) they improperly seek to impose new requirements on providers whose general operating authority already encompasses the provision of all telecommunications services, including fixed interconnected VoIP (iVoIP), and (2) the penalty for noncompliance impermissibly attempts to impair the vested, statewide franchise rights of providers with general operating authority.

The Proposed Decision commits legal error because it exceeds the Commission's authority, includes a penalty for noncompliance with the Tier 1 advice letter requirement that would impair the vested, statewide franchise rights of providers with general operating authority, rests on a mistaken premise that contradicts both general operating authority and the Proposed Decision's own clarification that the DVF utility type does not alter that authority, and adds new requirements without adequate notice to affected providers.

II. THE PROPOSED DECISION COMMITS LEGAL ERROR BY REQUIRING PROVIDERS WITH GENERAL OPERATING AUTHORITY TO ADD THE DVF UTILITY TYPE OR FILE A CPCN APPLICATION TO EXPAND THEIR AUTHORITY.

AT&T California has general operating authority pursuant to a statutory franchise.⁵ As noted in the Proposed Decision, such statutory franchise predates the Public Utilities Act,⁶ and it

⁴ Proposed Decision at 12-13, 46.

⁵ Proposed Decision at 10 n. 12 (noting “[g]eneral operating authority refers statutory franchises that predate the Public Utilities Act, e.g., operating authority held by traditional local exchange carriers such as AT&T and Frontier.”); *see also Pacific Tel. & Tel. Co. v. Los Angeles* (1955) 44 Cal.2d 272, 276 (stating “[t]he Pacific Telephone and Telegraph Company has been engaged in operating a telephone and telegraph system since January 2, 1907, and its lines are used in rendering a local, statewide and interstate communication service.”).

⁶ Proposed Decision at 10 n. 12; *see also Center for Biological Diversity, Inc. v. Public Utilities Com.* (2025) 18 Cal.5th 293, 301-02 (providing overview of California Public Utilities Commission, explaining that the Public Utilities Act, enacted by the California legislature in 1911, “set out the then-Railroad Commission’s authority to regulate various utilities, including water, energy, transportation, and telecommunications companies[,]” and noting the Railroad Commission was “later renamed the Public Utilities Commission”).

also predates the requirement to obtain a CPCN.⁷ The statutory franchise derives from California Civil Code Section 536 (now California Public Utilities Code Section 7901),⁸ which “offers a franchise to telegraph and telephone companies to use the highways and other public places for their lines and equipment”⁹ and “places no restriction upon the communication purposes for which telephone lines may be used.”¹⁰ The scope of this franchise authority is inherently broad and technology-neutral.¹¹

That said, the Proposed Decision requires all existing wireline providers offering fixed iVoIP service, including those with general operating authority pursuant to a statutory franchise, to obtain the DVF utility designation via a Tier 1 advice letter if they do not have the DVF

⁷ See generally *Postal Telegraph-Cable Co. v. Railroad Com. of California* (1927) 200 Cal. 463, 473 (discussing respondent’s argument stemming from “the adoption, in 1911, of amendments to the state constitution, and the enactment by the legislature of the ‘Public Utilities Act,’ which went into effect March 23, 1912 (Stats. 1911, Extra Session, pp. 18, 43), and which expressly added (sec. 50 [b]) a new requirement, i. e., a certificate of public convenience and necessity from the Railroad Commission as a condition precedent to the exercise by the public utility of its franchise rights”).

⁸ *Pacific Tel. & Tel. Co.*, 44 Cal.2d at 276 (referring to Civil Code Section 536 in the opinion but noting “[t]his section now appears as section 7901 of the Public Utilities Code”); see also CAL. PUB. UTIL. CODE § 7901 (relating to right of way and providing, in part, “[t]elegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within this State[.]”).

⁹ *Pacific Tel. & Tel. Co.*, 44 Cal.2d at 276; see also *County of Los Angeles v. Southern California Tel. Co.* (1948) 32 Cal.2d 378, 381-82 (explaining Civil Code Section 536 was repealed and reenacted in 1905 “to add *telephone corporations* to the section” and holding “the intention was to offer the grant of a franchise to telephone as well as telegraph companies upon acceptance by the construction and operation of communication facilities”) (emphasis in original); see also *Postal Telegraph-Cable Co.*, 200 Cal. at 472 (holding the then-Railroad Commission (now Public Utilities Commission) “may not now demand the [CPCN] from petitioner before it can carry on its intrastate business” because Civil Code Section 536 “constitutes a grant of a franchise which the state offered, and petitioner accepted by the construction of its lines”).

¹⁰ *Pacific Tel. & Tel. Co.*, 44 Cal.2d at 282-83.

¹¹ *Id.* at 281-83 (affirming “declaration in the judgment that Pacific is entitled to use its lines interchangeably ‘for transmitting telephone messages, telegraph messages, teletypewriter messages, telephotographs, program services (including radio and television broadcasts) and any other communication service by means of the transmission of electrical impulses” and concluding that California Civil Code Section 536 (now California Public Utilities Code Section 7901) “places no restrictions upon what may be transmitted by means of electrical impulses over those lines”).

designation.¹² The Proposed Decision explicitly states “[t]he requirement applies to Local Exchange Carriers (LECs) with a statutory franchise, *i.e.* general operating authority, in addition to Competitive LECs and Interexchange Carriers (IECs) with specific CPCN or Section 1013 operating authority.”¹³

Unlike providers that obtained specific grants of authority through CPCN applications¹⁴ or Section 1013 registrations¹⁵—which are limited to particular types of service and service territories—providers with general operating authority hold a statewide franchise encompassing all telecommunications services.¹⁶ This distinction is critical. Providers with specific authority may be required to update their operating authority when they wish to offer new types of service.¹⁷ By contrast, providers with general operating authority already possess the right to provide all telecommunications services,¹⁸ including fixed iVoIP service. The requirement that AT&T California either add a DVF utility type to its existing operating authority or file a CPCN application to expand its existing authority to include fixed iVoIP service constitutes legal error for the following reasons.

¹² Proposed Decision at 12, 46.

¹³ *Id.* at 12.

¹⁴ CAL. PUB. UTIL. CODE § 1001 (providing, in part, that a telephone corporation “shall not begin the construction . . . of a line, . . . or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require its construction.”); *see also generally* CAL. CODE REGS., tit. 20, § 3.1.

¹⁵ CAL. PUB. UTIL. CODE § 1013.

¹⁶ *Pacific Tel. & Tel. Co.*, 44 Cal.2d at 276, 281-83.

¹⁷ *See, e.g.*, D.95-12-057, *Opinion*, R.95-04-043, Investigation (I.) 95-04-044 (Dec. 20, 1995) (granting a CPCN to 31 competitive local carriers, including AT&T Enterprises, LLC’s predecessor AT&T Communications of California, Inc., “to operate as facilities-based Competitive Local Carriers within the service territories of Pacific Bell and GTE California”).

¹⁸ *Pacific Tel. & Tel. Co.*, 44 Cal.2d at 276, 281-83.

A. The Commission Exceeds its Authority over Providers with General Operating Authority.

The Commission exercises its authority over public utilities subject to a constitutional framework.¹⁹ Additionally, Article XII, Section 5 of the California Constitution provides that the California legislature has plenary power “to confer additional authority and jurisdiction upon the [C]ommission[.]”²⁰ California Public Utilities Code Section 701 vests the Commission with the authority to supervise and regulate public utilities.²¹ The Commission, however, does not have the authority or power to require providers with general operating authority to re-obtain or reformulate authority they already possess or to impair the vested, statewide franchise rights of providers with general operating authority.²²

Nevertheless, the Proposed Decision requires providers with general operating authority pursuant to a statutory franchise to timely add a DVF utility type designation for a service they are already authorized to provide under that preexisting authority; otherwise, these providers are required to file a CPCN application to expand their existing authority to include fixed iVoIP

¹⁹ See generally CAL. CONST., ART. XII, §§ 1-6; see also *Center for Biological Diversity, Inc.*, 18 Cal.5th at 301 (describing the Commission as “a state agency of constitutional origin”).

²⁰ CAL. CONST., ART. XII, § 5.

²¹ CAL. PUB. UTIL. CODE § 701 (providing “[t]he commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.”).

²² *Postal Telegraph-Cable Co.*, 200 Cal. at 472-73 (holding petitioner’s statutory franchise rights pursuant to Civil Code Section 536 “are vested rights which the constitutions, both state and federal, protect [and] cannot be taken away by the state, even though the legislature should repeal the section, or by the people through a constitutional provision” and further adding “[t]he grant, resulting from the acceptance of the state offer, constituted a contract between the [petitioner] and the state, secured by the constitution of the United States against impairment by any state legislation.”); see also *County of Los Angeles*, 32 Cal.2d at 384 (providing “Section 536 has been judicially construed by many decisions of [the California Supreme Court], and it has been uniformly held that the statute is a continuing offer extended to telephone and telegraph companies to use the highways, which offer when accepted by the construction and maintenance of lines constitutes a binding contract based on adequate consideration, and that the vested right established thereby cannot be impaired by subsequent acts of the Legislature.”).

service.²³ These requirements in effect condition the continued exercise of an existing statutory franchise right upon compliance with new filing requirements (*i.e.*, Tier 1 advice letter or CPCN application)—a result that has no basis in law. A provider with general operating authority encompassing all telecommunications services cannot be compelled to “add” authority it already possesses or have their vested, statutory franchise rights impaired by the Commission. By adopting such requirements, the Commission exceeds its authority, resulting in legal error.

B. The Proposed Decision Mischaracterizes the Legal Issue as One of “Reporting Requirements.”

The Proposed Decision conflates two fundamentally different regulatory actions. In its comments to the Staff Proposal, AT&T recommended:

[t]o avoid confusion, in the Phase 2 decision, the Commission should: (1) acknowledge iVoIP service providers with *general* authority to operate in California; (2) clarify these providers with *general* authority are not required to take any action related to the DVF utility type designation; and (3) conclude these providers are not impacted by the Phase 2 decision on this issue because they have *general* authority to provide all telecommunications services in California.²⁴

The Proposed Decision erroneously characterizes AT&T’s recommendation as an “argument” that the Commission should “exempt” AT&T California from “reporting requirements[.]”²⁵ deeming it contrary to the Commission’s “policy objective of competitive neutrality.”²⁶

AT&T has not argued that it be exempted from “reporting requirements.” Rather, it raises legal issues with the requirement that AT&T California timely add the DVF utility type

²³ Proposed Decision at 12-13, 46.

²⁴ *Comments of Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) and AT&T Enterprises, LLC (U 5002 C) to the Administrative Law Judge’s Ruling Seeking Comment on Staff Proposal on Phase 2 Issues* (AT&T Comments), R.22-08-008 at 2 (Jan. 12, 2026) (emphasis in original).

²⁵ Proposed Decision at 12.

²⁶ *Id.*

designation or file a CPCN to expand its operating authority to include fixed iVoIP service. The concern with “competitive neutrality” over reporting requirements is inapposite to the legal issue AT&T raises.

The Commission’s authority to require reporting from providers subject to its jurisdiction is well-established. The Commission may require any telephone corporation to submit information regarding its telecommunications services as an exercise of its supervisory function.²⁷ However, the Proposed Decision does not merely require reporting. It imposes requirements that impermissibly impair the vested, statewide franchise rights of providers with general operating authority resulting in legal error²⁸ as discussed above. If the Commission’s objective is transparency²⁹ and data collection,³⁰ it can achieve those goals through standalone reporting requirements or information requests. Such requirements would not implicate providers’ existing authority and would avoid the legal infirmity of impairing vested, statewide franchise rights.

C. The Proposed Decision Includes Inconsistent Statements Regarding Expansion of Operating Authority.

The Proposed Decision clarifies that the addition of the DVF utility type “neither expands nor narrows the operational authority already obtained by the provider.”³¹ Yet, the Proposed Decision requires providers who fail to timely file the Tier 1 advice letter to “file an application requesting expansion of operating authority to include fixed interconnected VoIP.”³² This creates

²⁷ See, e.g., CAL. PUB. UTIL. CODE §§ 581, 582, and 584.

²⁸ *Postal Telegraph-Cable Co.*, 200 Cal. at 472-73; see also *County of Los Angeles*, 32 Cal.2d at 384.

²⁹ Proposed Decision at 12-13, 40.

³⁰ *Id.* at 42-43.

³¹ *Id.* at 13.

³² *Id.* at 46.

an irreconcilable internal inconsistency. If the DVF utility type does not constitute a change to operating authority, then the failure to file the advice letter cannot logically trigger a requirement to file a CPCN application to “expand” operating authority.

The inconsistency is significant for providers with general operating authority pursuant to a statutory franchise. These providers already possess authority to provide fixed iVoIP service. The Commission cannot require them to “expand” authority they already possess. The threat that noncompliant providers must file a CPCN application for “expansion of operating authority to include fixed interconnected VoIP”³³ presupposes that such providers lack authority to provide fixed iVoIP service or that failure to file a Tier 1 advice letter to add such superfluous designation could allow the Commission to abrogate vested, statewide franchise rights—propositions that are patently erroneous.³⁴ The Proposed Decision therefore rests on a mistaken premise that contradicts both general operating authority and its own clarification that the DVF utility type does not alter that authority resulting in legal error.

D. The Requirements in the Proposed Decision for Providers with General Operating Authority to Add a DVF Utility Type or File a CPCN Application to Expand Their Authority Have Not Been Properly Noticed.

The Staff Proposal that formed the basis for the Proposed Decision, relating to the addition of the DVF utility type,³⁵ applied to providers with a CPCN or Section 1013 registration.³⁶ It specifically proposed “all licensed wireline carriers holding a CPCN or Section

³³ *Id.*

³⁴ *Pacific Tel. & Tel. Co.*, 44 Cal.2d at 276, 281-83; *see also Postal Telegraph-Cable Co.*, 200 Cal. at 472-73; *see also County of Los Angeles*, 32 Cal.2d at 381-82, 384.

³⁵ Proposed Decision at 9-10.

³⁶ *Administrative Law Judge’s Ruling Seeking Comment on Staff Proposal on Phase 2 Issues*, R.22-08-008 at Attachment 2, pp. 2-3 (Dec. 1, 2025) (Staff Proposal); *see also* Proposed Decision at 9-10 (discussing the Phase 2 Staff Proposal).

1013 registration who are offering fixed interconnected VoIP under their current wireline operating authority be required to file a Tier 1 advice letter to add the DVF designation within 12 months from the issuance of the Phase 2 Decision.”³⁷ Additionally, it proposed “carriers that do not timely comply . . . will be required to file a CPCN application to expand their existing operating authority.”³⁸ The Staff Proposal did not propose extending these requirements to providers with general operating authority pursuant to a statutory franchise, omitting them entirely from the proposal.³⁹

The expansion of these requirements to providers with general operating authority has not been adequately noticed or briefed. Frontier specifically sought clarification on this issue, noting “[t]he Staff Proposal appears to limit the Tier 1 advice letter process to carriers who have either a CPCN or Section 1013 registration” and requesting clarification that “ILECs with operating authority pursuant to statutory franchises do not need to submit a Tier 1 advice letter . . . to add DVF to their existing general operating authority.”⁴⁰ AT&T similarly explained “the Staff Proposal does not address iVoIP service providers with *general* authority to operate in California” and recommended the Commission “(1) acknowledge iVoIP service providers with *general* authority to operate in California; (2) clarify these providers with *general* authority are not required to take any action related to the DVF utility type; and (3) conclude these providers

³⁷ Staff Proposal at 2-3 (outlining its proposal for a streamlined Tier 1 advice letter process for “carriers who received either a CPCN or Section 1013 Registration prior to the issuance of the Phase 2 Decision and who did not have a separate [Digital Voice Service] registration”).

³⁸ *Id.* at 3.

³⁹ *See generally id.* at 1-3; *see also* AT&T Comments at 2.

⁴⁰ *Comments of Frontier California Inc. (U 1002 C), Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California (U 1024 C), Frontier Communications of the Southwest Inc. (U 1026 C) [] on Assigned Administrative Law Judge’s Ruling Seeking Comment on Staff Proposal on Phase 2 Issues, R.22-08-008 at 1 (Jan. 12, 2026).*

are not impacted by the Phase 2 decision on this issue because they have *general* authority to provide all telecommunications services in California.”⁴¹ The Proposed Decision’s expansion of the Staff Proposal’s proposed requirements to statutory franchise holders without a supplemental comment period violates the right to due process and deprives them of notice and an opportunity to be heard⁴² resulting in legal error.

III. THE PROPOSED DECISION SHOULD BE MODIFIED TO CORRECT THE LEGAL ERRORS.

For the foregoing reasons, the Commission should modify: (1) the Proposed Decision to conclude that providers holding general operating authority pursuant to a statutory franchise are not required to file a Tier 1 advice letter to add the DVF utility type or file a CPCN application to expand their authority to include fixed iVoIP service, as their existing authority encompasses fixed iVoIP service, and (2) the proposed findings of fact and conclusions of law as provided in Appendix A. Alternatively, and at a minimum, the Commission should conclude that noncompliance by statutory franchise holders with the Tier 1 advice letter requirement to add the DVF utility type will neither impair their vested, statewide franchise rights nor trigger a requirement to file a CPCN application to “expand” authority they already possess.

IV. CONCLUSION

The Proposed Decision commits legal error because it exceeds the Commission’s authority, includes a penalty for noncompliance with the Tier 1 advice letter requirement that would impair the vested, statewide franchise rights of a provider with general operating authority, rests on a mistaken premise that contradicts both general operating authority and the

⁴¹ AT&T Comments at 2 (emphasis in original).

⁴² CAL. CONST., ART. I, § 7; *see also* CAL. PUB. UTIL. CODE § 1757.1(a)(2), (6).

Proposed Decision's own clarification that the DVF utility type does not alter that authority, and adds new requirements without adequate notice to affected providers. The Commission should modify the Proposed Decision's findings of fact and conclusions of law as set forth herein and Appendix A.

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Respectfully submitted,

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APPENDIX A¹

Findings of Fact:

~~[An optional DVF designation would perpetuate the variation in the licensing status of currently operating interconnected VoIP service providers.]~~

[Providers holding general operating authority pursuant to a statutory franchise that predates the California Public Utilities Act and the requirement to obtain a CPCN already possess authority to provide all telecommunications services, including fixed iVoIP service, within California.]

[The Staff Proposal on Phase 2 Issues addressed the DVF utility type requirement and the CPCN application requirement only as to providers holding a CPCN or Section 1013 registration and did not propose extending the requirements to providers with general operating authority pursuant to a statutory franchise.]

Conclusions of Law:

Telephone corporations with operating authority to provide fixed interconnected VoIP service [pursuant to a CPCN or a 1013 Registration and providing fixed interconnected Voice over Internet Protocol service] that do not have a DVF utility designation, should be required to file a Tier 1 advice letter within 12 months of the issuance of this decision to add the DVF designation.

Telephone corporations [with operating authority pursuant to a CPCN or a 1013 Registration and providing fixed interconnected Voice over Internet Protocol service that do not have a Digital Voice Fixed (DVF) utility designation] ~~[that]~~ [and] fail to file the required Tier 1 advice letter to add the DVF utility type within 12 months of the issuance date of this decision, should be required to file an application requesting expansion of operating authority to include fixed interconnected VoIP.

[Providers holding general operating authority pursuant to a statutory franchise are not required to file a Tier 1 advice letter to add the DVF utility type or file a CPCN application to expand their authority to include fixed iVoIP service, as their existing authority encompasses fixed iVoIP service.]

¹ Words within brackets and underlined are proposed additions, and words within brackets and struck through are proposed deletions.