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06/10/26

11:13 AM

R2406012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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PUBLIC UTILITIES COMMISSION
JUNE 20, 2024
SAN FRANCISCO, CALIFORNIA
RULEMAKING 24-06-012

**OPENING COMMENTS OF SMALL BUSINESS UTILITY ADVOCATES ON FCC
SECTION 214 SERVICE DISCONTINUANCE RULES CHANGE IMPACT**

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Dated: June 10, 2026

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Small Business Utility Advocates (SBUA) submits these opening comments in response to the Administrative Law Judge's Ruling Soliciting Comments on FCC Section 214 Service Discontinuance Rules Change Impact, issued May 28, 2026, which asks parties to comment on whether the Federal Communications Commission's (FCC) revised Section 214 Service Discontinuance Rules impact the California Public Utilities Commission's (Commission) Carrier of Last Resort (COLR) Rules, and if so, how the Commission should respond.

I. INTRODUCTION

SBUA represents California's approximately 4.2 million small businesses, including those in Environmental and Social Justice (ESJ) communities. These businesses depend on reliable, affordable telecommunications services to operate, serve their communities, and stay connected during emergencies. How the FCC's revised Section 214 rules interact with California's independent COLR authority will directly affect whether small businesses and ESJ communities retain meaningful protections during technology transitions.

II. ARGUMENT

Section 214 of the Communications Act requires carriers to obtain FCC authorization before discontinuing service. On March 26, 2026, the FCC adopted a Report and Order (FCC Order) that materially revised the rules governing that authorization process.¹ It streamlines and accelerates the process by which carriers may exit legacy voice service markets, introduces an "alternative options test" enabling faster processing of discontinuance applications, shortens public comment and auto-grant periods, eliminates copper retirement disclosure requirements, and asserts federal preemption of state and local requirements that have the effect of continuing to require carriers to provide legacy voice services where the FCC has authorized discontinuance.

The FCC Order does impact the Commission's COLR Rules. However, Section 214 authorization cannot predetermine or limit the Commission's assessment of whether functionally equivalent, reliable, and affordable alternatives are actually available to the California customers the COLR framework is designed to protect.

A. The FCC Order's Preemption Assertion Does Not Eliminate California's Independent Authority Over Transition Adequacy

The FCC Order asserts that federal law preempts any state or local requirement that—either by law or in practice—has the effect of continuing to require carriers to provide legacy voice services where the FCC has authorized discontinuance.

The Commission's COLR framework encompasses far more than simply requiring carriers to keep a service running: it governs the adequacy of replacement services, the

¹ FCC, In the Matter of Reducing Barriers to Network Improvements and Service Changes (WC Docket No. 25-209) and Accelerating Network Modernization (WC Docket No. 25-208), FCC 26-19, released March 27, 2026.

sufficiency of customer notice, the protection of ancillary services, equitable access obligations, and universal service commitments. The FCC Order's preemption assertion appears to be directed at service-continuation mandates rather than at standards governing how transitions occur. Rules that function as service-continuation mandates should be reframed to focus on transition adequacy—preserving their consumer-protective purpose without inviting preemption challenges.

B. The FCC's Alternative Options Test Does Not Ensure That Alternatives Adequately Serve Ratepayers

The FCC Order's alternative options test asks only whether at least one unaffiliated provider's standalone facilities-based voice service is available somewhere in the affected service area. That threshold tells the Commission nothing about whether available alternatives adequately serve the customers who depend on the service being discontinued. And a carrier's receipt of federal Section 214 discontinuance authorization does not constitute a finding that affected California customers have adequate replacement services, that ESJ communities will be protected, or that the public interest under California law is served.

For example, a small business may be located in an area where a provider reports that a consumer-grade VoIP replacement is available, but that small business may depend on technical specifications the VoIP service may not provide. That may include static IP addresses for alarm and remote access systems; dedicated circuits for payment processing; compatibility with PBX and multiline phone systems; specific service level agreements; and reliability during extended power outages. The same is true for copper-dependent systems small businesses rely on for safety-critical functions, including commercial security panels and fire alarm dialers; elevator emergency

phones; point-of-sale and credit card authorization systems; fax machines used in healthcare, legal, and insurance industries to meet regulatory requirements; TTY/TDD and California Relay Service equipment; and door access and intercom systems. For each of these, the existence of a VoIP service somewhere in the service area is no guarantee that the system will continue to function. A carrier can satisfy the FCC's test entirely without any of these systems having a verified, functional replacement.

The FCC Order compounds the problem by eliminating the network change disclosure requirements that previously gave the Commission and affected customers advance notice of planned copper retirements. Whatever warning time small businesses once had has been eliminated. What remains is a compressed discontinuance process in which the Commission and affected customers may have as little as 15 days to respond to an impending service change that could disable a fire alarm, silence an elevator emergency phone, or sever a payment processing line.

The record in this proceeding confirms that availability showings cannot substitute for verified, on-the-ground performance. The Commission has itself challenged almost ten million California locations in the FCC's mobile Broadband Data Collection.² The Commission's own Network Examination found that major carriers have systematically focused investment in higher-income communities, resulting in poorer service quality and fewer alternatives in lower-income communities and communities of color.³

² Administrative Law Judge's Ruling Regarding Comments on Topics Discussed at April Workshops, Rulemaking 24-06-012, at 9-10 (noting that the Commission has challenged almost ten million locations in California as part of the FCC's mobile Broadband Data Collection).

³ Communications Division, Network Exam Report, Phase I (April 2019), Chapter 1 at 1-2 ("The Network Exam found that both AT&T and Frontier have focused investments over the past ten years in higher-income communities, resulting in poorer service quality and fewer alternatives for lower-income communities and communities of color."); Communications Division, Network Exam Report, Phase II (2022) (finding that AT&T and Frontier continue to focus investments in higher-income communities). See also Administrative Law Judge's Ruling Requesting

Carrier-reported coverage and modeled availability consistently fail to reflect the lived reality of customers, particularly those in ESJ communities.

Before COLR obligations may be relinquished, the Commission must make those findings independently, using California-specific evidence. The Commission should revise its existing rules addressing replacement service adequacy to require that proposed replacement services meet an independently verified functional equivalence standard—not a theoretical availability standard. The Commission should adopt a new rule addressing these concerns. For example, before COLR relief may be granted, carriers could be required to make showings such as:

(1) whether proposed replacement services are compatible with the safety-critical and business-critical ancillary systems actually in use in the affected area, with the carrier required to inventory those systems as part of its application;

(2) reliability during extended power outages, including Public Safety Power Shutoff (PSPS) events;

(3) indoor usability in commercial environments;

(4) compatibility with PBX, multiline, and other small business telephony infrastructure;

(5) service level commitments comparable to legacy service;

(6) independent, on-the-ground verification rather than modeled or carrier-reported data; and

(7) whether replacement services are affordable, including eligibility for California LifeLine or equivalent low-income programs.

Comments on Network Examination and ARMIS Reporting, Rulemaking 22-03-016, August 31, 2022, at 3.

Consistent with the Commission's ESJ Action Plan,⁴ the rule could also require disaggregated analysis by ZIP code, income, and ESJ status.

Where the showing reveals that verified alternatives do not exist for identified ancillary systems, discontinuance should not be permitted to proceed until verified alternatives are in place, or at minimum the carrier should be required to provide adequate transition support—including financial assistance for equipment transition, installation assistance, and extended service continuity—before discontinuance takes effect.

C. The FCC Order Does Not Preempt California's Authority to Strengthen Customer Notice Requirements

The FCC Order preserves the baseline requirement that carriers provide written notice to customers before filing a discontinuance application. But the period between customer notice and auto-grant can now be as short as 31 days—and potentially less in grandfathering proceedings. Therefore, the Commission should strengthen its existing notice rules to give ratepayers the best opportunity to respond to proposed service changes.

For example, notice could be required to include: (1) a plain-language description of the proposed change and timeline; (2) specific information about available replacement services and their compatibility with the customer's existing systems; (3) identification of ancillary equipment that may need to be replaced and estimated transition costs; (4) information about the customer's right to file comments with the

⁴ California Public Utilities Commission, Environmental and Social Justice Action Plan, Version 2.0, April 7, 2022, in which the Commission commits to considering disproportionate impacts on disadvantaged communities and to incorporating an equity lens into Commission decision-making. Available at the time of this writing at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-of-fice/key-issues/esj/esj-action-plan-v2jw.pdf>.

FCC and the Commission; and (5) contact information for the Commission's Consumer Affairs Branch. The Commission could also require notice to be provided in multiple languages, in formats accessible to customers with disabilities, and through multiple channels.

Notice requirements are not preempted by the FCC Order—they govern how transitions occur, not whether they are permitted, and they fall squarely within California's consumer protection authority.

III. CONCLUSION

The FCC Order changes the federal framework governing service discontinuances in ways that directly implicate the Commission's COLR Rules. But federal authorization to discontinue a service is not a finding that California customers are adequately served, that ESJ communities are protected, or that the public interest under California law is served. SBUA urges the Commission to adopt rules that preserve its independent authority over transition adequacy, ensure that alternatives actually work and are affordable for the customers who depend on them, and give ratepayers a meaningful opportunity to respond to proposed service changes.

Respectfully submitted,

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