PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division **RESOLUTION T-17789**
Carrier Oversight and Programs Branch **February 15, 2024**

RESOLUTION

RESOLUTION T-17789 Denies AT&T California's (U-1001-C) Corrective Action Plan as proposed in Advice Letter 49420, Advice Letter 49420A, and Advice Letter 49420B for failing to meet the conditions set forth in Resolution T-17769.

I. SUMMARY

This resolution denies AT&T California's Corrective Action Plan (CAP) proposed in Advice Letters (AL) 49420, 49420A, and 49420B. On February 15, 2022, AT&T California (AT&T) submitted AL 49018, asking to suspend the General Order (GO) 133-D[1] fine of $3,092,400 for failing to meet the *Out of Service Repair Interval (OOS)* standard in 2021. Instead of the fine, AT&T asked to invest $6,184,800 in proposed service quality improvement projects pursuant to GO 133-D, Section 9.7. Resolution T-17769[2] approved the investment plan on the condition that AT&T submit a CAP as a Tier III AL explaining the actions that the company will take to correct the failure and improve the service quality performance to a level that meets adopted measures and standards. This Resolution finds that AT&T's CAP failed to satisfy these requirements. Therefore, the California Public Utilities Commission (Commission) denies the CAP.

II. BACKGROUND

Since 1972, the Commission has required public utility telephone corporations such as AT&T to provide service that meets minimum service quality standards.[3] GO 133-C established a minimum set of service quality standards and measures for installation,

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[1] General Order 133-D.

[2] Resolution T-17769.

[3] *See* Pub. Util. Code § 2896 ("The [C]omission shall require telephone corporations to provide customer service to telecommunication customers that include, but are not limited to…(c) Reasonable statewide service quality standards, including but not limited to, standards regarding network technical quality, customer service, installation, repair, and billing. …"); *see* also GO 133-D, § 1.1(a).

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maintenance, and operator services for local exchange telephone service in California. GO 133-D, adopted in Decision (D.) 16-08-021,[4] expanded on several of GO 133-C's provisions and established an automatic fine mechanism applicable when a carrier fails to meet any of the five service quality measures for three consecutive months.[5]

The five service quality measures focus on how long it takes telephone corporations to install, maintain, repair, and respond to requests regarding telephone service. The first two do not apply to Uniform Regulatory Framework (URF) carriers such as AT&T and Frontier[6]. GO 133-D requires telephone corporations to report, on a quarterly basis, monthly performance results for each of the five service quality metrics in Table 1[7] using a standardized form developed by Commission staff, the "Service Quality Standards Reporting Template."[8] These quarterly reports appear on the Commission's website.[9]

Service Measure	**Type of Service**
Installation Interval	Installation
Installation Commitments	Installation
Customer Trouble Reports	Maintenance
Out of Service Repair Interval	Maintenance
Answer Time	Operator Services

Table 1. GO 133-D Service Quality Metrics.

A. ALTERNATIVE TO INVEST TWICE THE AMOUNT OF FINE

Section 9.7 of GO 133-D allows carriers subject to annual fines to propose in their annual

[4] D.16-10-019 corrects minor errors in the original version of GO 133-D.
[5] GO 133-D, § 9.1.
[6] See Order Instituting Rulemaking for a Uniform Regulatory Framework, D.06-08-030.
[7] *See* §§ 3.1(e), 3.2(e),3.3(e), 3.4(e), and 3.5(e) in both GO 133-C and GO 133-D.
[8] *See* GO 133-C, Rule 8 ("8. FORM The attached form is a template for reporting GO 133-C Service Quality Standards. The staff may change this form as necessary." *See also* GO 133-D, Rule 10 ("10. FORM The attached formis a template for reporting GO 133-D Service Quality Standards. The staff may change this form as necessary. Additional information can be found on the Commission's website.") The form can be found at https://www.cpuc.ca.GOv/General.aspx?id=1011.
[9] Telecommunications Carriers' Service Quality Reports – GO 133-D.

filing that in lieu of a fine, they will "invest no less than twice the amount of their annual fine in a project(s) which improves service quality in a measurable way within two years."[10] Section 9.7 requires the carrier to demonstrate that: 1) twice the amount of the fine is being spent, 2) the project(s) is an incremental expenditure with supporting financials (e.g. expenditure is in excess of the existing construction budget and/or staffing base), 3) the project(s) is designed to address a service quality deficiency and, 4) upon the project(s) completion, the carrier shall demonstrate the results for the purpose proposed.

Thus, the burden is on carriers to demonstrate with specificity that the proposed investment will remedy the service quality deficiencies that led to the fine in a "measurable way." The carrier must provide "supporting financials" or other documentation that shows the project is new and funded in excess of business-as-usual funding levels and must improve customer service quality.[11]

Carriers are responsible under state law and Commission rules to maintain facilities and provide safe and reliable service by meeting "reasonable statewide service quality standards."[12] Reliable telecommunications services are critical to many aspects of society, including public health and safety, business and commerce, and education, and thus, a telephone corporation's investments in service quality should already be sufficient to meet those needs. It would not be in the public interest for the Commission to approve a carrier's Section 9.7 fine suspension/investment plan if the proposal includes projects that are not truly in addition to the carrier's normal budgeted project costs and Operation & Maintenance expenditures for maintenance, repair, and other operational activities.

B. <u>RESOLUTION T-17769</u>

AT&T submitted AL 49018 on February 15, 2022, and correctly calculated $3,092,400 in GO 133-D service quality fines for not meeting the *OOS* standard for twelve months in 2021. AT&T requested that the Commission suspend the fine and approve its proposed investment projects. AT&T proposed to invest $6,184,800 in six wire centers within its operating territory in California. AL 49018 was approved by the Commission in Resolution T-17769 on January 12, 2023.

[10] GO 133-D, § 9.7.
[11] GO 133-D, § 9.7.
[12] See e.g., Pub. Util. Code §§ 451 and 2896(c).

AT&T stated that its investment in-lieu plan will prioritize project areas based on their 2021 service quality results and be in addition to its business-as-usual budgetary processes, and that the proposed investments will bring fiber to areas that currently lack the technology and reduce the number of service outage occurrences.[13] After some delay by AT&T, the company submitted supplemental AL 49018A, providing more detail on its proposed investment, on June 27, 2022. AL 49018 and the late-filed information (AL 49018A) did not alone provide evidence (e.g., supporting financials, construction budget, engineering, staffing base, etc.) that the proposal submitted would materially improve service for AT&T's customers, that the proposal would enable AT&T to meet the *OOS* standard, or that the proposal's projected costs are in addition to AT&T's normal budgeted costs.

Resolution T-17769, therefore, ordered AT&T to submit a Corrective Action Plan (CAP) as a Tier 3 AL within 60 days pursuant to GO 133-D, Section 7, to explain why AT&T failed to meet the required service quality standards and the actions that the company will take to correct the failure and improve service quality performance to a level that meets adopted measures and standards. The CAP must contain two components: a performance assessment and an outage assessment.[14] AT&T shall also submit quarterly updates during the two-year assessment period and a final report at the conclusion of the period. Quarterly updates are due no later than four weeks following the last day of the calendar quarter.[15]

III. DISCUSSION

A. AT&T AL 49420 Corrective Action Plan

On March 13, 2023, AT&T filed AL 49420 as a Tier 3 AL as directed in Ordering Paragraph 2 of Resolution T-17769. The goal was for AT&T to submit a CAP to meet the GO 133-D *OOS* standard within a two-year period and to demonstrate a trend towards achieving this goal.[16] Section III(F) of the resolution required planned monthly

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[13] AL 49018, pp. 1-2.
[14] Resolution T-17769, Section III (F).
[15] Calendar quarters are January through March, April through June, July through September, and October through December.
[16] See Resolution T-17769 at p. 8.

targets of *OOS* repair tickets to be restored within 24 hours.[17] In its CAP, AT&T provided the following table of *OOS* monthly targets that ranged between 28% and 73% and did not meet the 90% *OOS* standard at the end of the two-year period. (Table 2).

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
2022 % of repair tickets restored ≤ 24 Hours	28.3%	59.1%	69.0%	56.6%	58.8%	52.5%	47.8%	52.2%	45.4%	61.5%	47.1%	35.7%
2023 % of repair tickets restored ≤ 24 Hours					60.8%	54.5%	49.8%	54.2%	47.4%	63.5%	49.1%	37.7%
2024 % of repair tickets restored ≤ 24 Hours	30.3%	61.1%	71.0%	58.6%	62.8%	56.5%	51.8%	56.2%	49.4%	65.5%	51.1%	39.7%
2025 % of repair tickets restored ≤ 24 Hours	32.3%	63.1%	73.0%	60.6%								

Table 2. AT&T's proposed monthly target percentage of *OOS* tickets restored within 24 hours. AL 49420 CAP, pg. 2.

Although the GO 133-D standards have been in place since 2017, AT&T has shown no intention of meeting the *OOS* standard. Instead, AT&T stated that it does not view the metric to be a valid indicator of the service quality experienced by their customers.[18] On April 26, 2023, the Communications Division asked AT&T to improve upon and clarify the proposed CAP in the form of a supplemental AL. AT&T filed AL 49420A on May 11, 2023, but did not update the CAP.

On June 2, 2023, the Commission notified AT&T that both AL 49420 and 49420A were insufficient and directed them to provide additional information. Additionally, if their response was unsatisfactory, Staff indicated that it would begin drafting a resolution denying AL 49420 and may consider additional corrective and enforcement actions.[19] AT&T filed supplemental AL 49420B on June 23, 2023. In its response, AT&T proposed staffing enhancements and initiatives to achieve quicker repair times such as: increasing the number of technicians designated for POTS repairs; prioritizing POTS outage tickets, where practical; deploying technicians from other departments, and core technicians from other states, as needed and feasible. However, these proposals notwithstanding, AT&T still maintained that the *OOS* metric is not meaningful and that the 90% threshold for repairing outage tickets should not be used as a determining factor in evaluating and approving AT&T's CAP or revised CAP. AT&T stated that the cost of training a sufficient number of technicians to meet the standard is too exorbitant, so it was not willing to or able to comply with GO 133-D service quality standards. [20]

[17] Per adjusted measurements, GO 133-D § 3.4(b).
[18] AL 49420, AL 49420A, AL 49420B.
[19] Commission Enforcement Policy – Resolution M-4846.
[20] AL 49420B, pg. 5.

AT&T has consistently failed to meet the *OOS* standard statewide in each month since GO 133-D was adopted in 2017 (Figure 1, Table 3).

The two-year monthly targets proposed in the CAP in AL 49420 fail to bring AT&T into compliance with GO 133-D service quality standards. Furthermore, AT&T has not filed quarterly update reports as required, and its performance and outage assessments were incomplete. AT&T stated that is not willing to invest in hiring and training the number of technicians needed to bring them into compliance with the *OOS* standard.[21]
Given AT&T's inadequate CAP, this Resolution refers the matter to the Commission's Consumer Protection Enforcement Division (CPED) and asks CPED to take whatever action it finds appropriate.

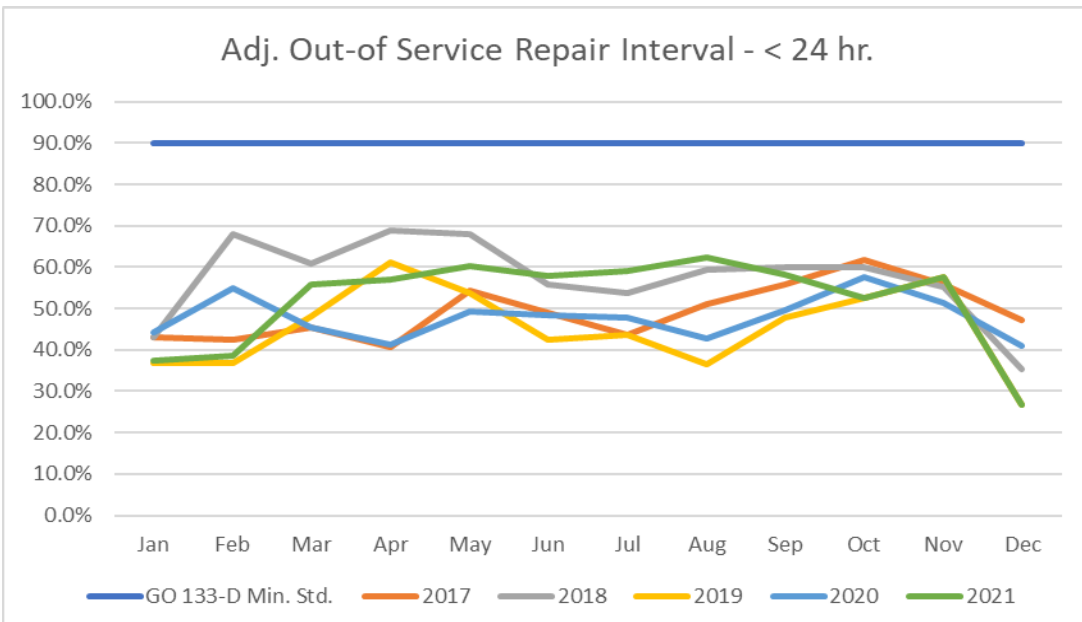

Figure 1. AT&T Adjusted GO 133-D Out of Service Repair Interval 2017 – 2021

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2017	43.2%	42.6%	45.3%	40.8%	54.2%	49.0%	43.7%	51.0%	55.7%	61.7%	55.8%	47.2%
2018	43.1%	68.0%	60.8%	69.0%	68.0%	55.8%	53.9%	59.3%	59.9%	59.9%	55.1%	35.3%
2019	36.8%	36.9%	48.2%	61.3%	53.8%	42.5%	43.7%	36.5%	47.8%	52.5%	57.7%	26.6%
2020	44.3%	54.9%	45.5%	41.3%	49.2%	48.3%	47.8%	42.8%	49.7%	57.6%	51.3%	41.1%
2021	37.5%	38.6%	55.8%	57.1%	60.3%	57.8%	59.2%	62.3%	58.3%	52.5%	57.7%	26.6%

Table 3. AT&T Adjusted GO 133-D Out of Service Repair Interval 2017 – 2021

B. PROTESTS

No protests were filed for AL 49420, 49420A, and 49420B.

IV. RULEMAKING 22-03-016 IS ALSO EXAMINING SERVICE QUALITY

AT&T has not provided any reason that it could not comply with GO 133-D. It does assert that it shouldn't have to comply, for policy reasons. Whether or not AT&T's policy arguments are well taken, an advice letter filing is not the place to raise them. Unless and until the Commission amends or rescinds GO 133-D, AT&T has an obligation to comply.

The Commission's Rulemaking (R.) 22-03-016 is considering proposed amendments to GO 133-D, including revisions to the *OOS* metric. The Commission will assess whether the existing GO 133-D service quality standards and measures meet the goals of the Commission and remain relevant to the current regulatory environment. Additionally, the Commission will consider whether the existing enforcement framework in GO 133-D is adequate to improve substandard voice communications services. AT&T is free to raise its policy arguments there.

Nothing in this Resolution limits the Commission's ability to impose or AT&T's obligation to comply with other legal requirements, including but not limited to General Order 133-D or its successors, Public Utilities Code § 451 and 2107, and Rule 1.1 of the Commission's Rules of Practice and Procedure.

V. SAFETY CONSIDERATIONS

A carrier's failure to meet GO 133-D service quality standards limits customers' ability to call 9-1-1 and other emergency services and restricts public safety personnel from communicating with each other during emergencies or disasters.

VI. CONCLUSION

The approval of the proposed investment plan in lieu of a fine in Resolution T-17769 was conditioned on the submission and compliance with a CAP. The goal of the CAP was for AT&T to meet all GO 133-D service quality standards by the end of the two-year period and to demonstrate a trend towards achieving this goal, which AT&T failed to do. AT&T has also failed to submit the quarterly update reports mandated in Resolution T-17769. AT&T asserts that it is impracticable and infeasible to meet the minimum threshold of 90% *OOS* standard, and too expensive to train and onboard the additional technicians needed to repair, at a minimum, 90% of outage repair tickets within 24-hours. Therefore, the Commission denies AT&T's CAP and refers the matter to CPED to take whatever action it finds appropriate.

COMMENTS

In compliance with Public Utilities Code § 311(g), the Commission emailed a notice letter on January 12, 2024, informing all parties on the general service list of the availability of this Resolution for public comments at the Commission's website www.cpuc.ca.gov. The notice letter also informed parties that the final conformed resolution adopted by the Commission will be posted on the same website.

Opening Comments were submitted by The Utility Reform Network (TURN), and AT&T on February 1, 2024. Reply comments were submitted by AT&T and TURN on February 6, 2024.

Opening Comments Summary

TURN strongly supports the denial of AT&T's proposed CAP. TURN stated that AT&T has not shown that its proposed investment in lieu of fines will measurably improve AT&T's deficient service quality, and that AT&T's prior investments failed to provide measurable service quality improvements. TURN was critical of AT&T's efforts to address its failure to meet GO 133-D service quality requirements by migrating customers to services presently not covered by GO 133-D. TURN supports investigation and/or further penalties and enforcement actions, including unsuspension of fines, given AT&T's flagrant refusal to satisfy its GO 133-D requirements. TURN recommends that the Draft Resolution include findings of fact that prior investments failed to measurably improve service quality.

AT&T states that its CAP presents a balanced approach that will improve service quality for existing customers and that the Commission should approve AT&T's CAP. AT&T argues that seeking a penalty through referral to CPED would penalize the same outcome twice.

Reply Comments Summary

TURN disagrees with AT&T's argument that referral to CPED for an investigation into further penalties combined with a fine or investment in lieu of fine would unfairly penalize the same outcome twice. The Commission can initiate an investigation pursuant to Rule 7 of GO 133-D, and a Rule 7 investigation is warranted because AT&T has failed to meet the minimum OOS reporting level for every year since at least 2017.

AT&T disagrees with TURN's opening comments and states that previous in lieu investments resulted in dramatically improved service quality in targeted communities. AT&T argues significant reductions of technician dispatches demonstrates an improvement in customer service quality while also acknowledging that it may continue to fail the OOS metric.

Communications Division Response

The Communications Division (CD) appreciates the comprehensive and constructive Opening Comments and Reply Comments filed by parties.

CD agrees with TURN's Opening Comments that AT&T's proposed CAP should be denied and that prior investments failed to provide measurable service quality improvements. CD also agrees that it is reasonable to refer the matter to CPED given AT&T's continuous year-over-year failure to comply with GO 133-D service quality standards.[22]

CD disagrees with AT&T that its CAP is adequate and will improve service quality for existing customers. CD strongly disagrees with AT&T's claim that their previous investment in lieu of proposals dramatically improved service quality in the targeted communities. For example, as recently as September 2023, twenty-four of the twenty-eight communities that AT&T prioritized for its 2018 investment proposal in Resolution T-17655 had an OOS repair rate far below 90%, and twenty-one had an OOS repair rate of 0%. Additionally, the number of technicians dispatched is not covered by GO 133-D and cannot be used as a substitute for the OOS metric. The percentage of lines with outage tickets is not the same as the OOS metric, which AT&T has not met since 2017.

[22] See GO 133-D §7 ("Staff may recommend the Commission institute a formal investigation into a carrier's performance and alleged failure to meet the reporting service level for six or more consecutive months.")

FINDINGS OF FACT

1. GO 133-D, Section 9.6 directs any telephone corporation whose service quality performance does not meet the minimum standards to submit annually, by February 15 of the following year, a Tier 2 AL that shows by month each quality measurement that did not meet the minimum standards, and the applicable fine.

2. AT&T continually failed to meet the GO 133-D *OOS* standard every month from January 2017 through December 2021.

3. AT&T's AL 49018 includes a request to suspend the $3,092,400 fine applicable to 2021 and a proposal to invest $6,184,800 in service quality improvement projects pursuant to GO 133-D, Section 9.7.

4. AT&T has previously failed to demonstrate a measurable improvement in service quality in its first two reinvestment proposals as required in T-17625 (2018) and T-17655 (2019).

5. AL 49018 was approved by the Commission in Resolution T-17769 on January 12, 2023, and required AT&T to file a CAP as a Tier 3 AL.

6. The goal of the CAP was for AT&T to meet the GO 133-D *OOS* standard by the end of the two-year period.

7. On March 13, 2023, AT&T filed AL 49420 as a Tier 3 AL as directed in Ordering Paragraph 2 of Resolution T-17769

8. AT&T's *OOS* targets in the CAP fluctuate between 28% and 73% and do not meet the 90% OOS standard.

9. AT&T failed to submit quarterly update reports that were due on July 30, 2023, and October 30, 2023.

10. AT&T stated in AL 49420A and 49420B that it does not think the *OOS* metric is a valid indicator of service quality and is unwilling to invest in hiring and training the

number of technicians it stated is needed to bring them into compliance with the OOS standard.

11. On January 12, 2024, the Commission emailed a draft of this Resolution to all parties on the general service list for public comments.

CONCLUSIONS OF LAW

1. It is reasonable for the Commission to deny AT&T's CAP submitted in ALs 49420, 49420A, and 49420B for failing to meet the conditions set forth in Resolution T-17769.

2. It is reasonable to refer the matter to CPED.

3. This Resolution does not limit the Commission's ability to impose on AT&T's obligation to comply with other legal requirements, including but not limited to General Order 133-D or its successors, Public Utilities Code § 451 and 2107, Rule 1.1 of the Commission's Rules of Practice and Procedure, an Order Instituting Investigation or other enforcement actions.

THEREFORE, IT IS ORDERED that:

1. The California Public Utilities Commission deny AT&T California's (U-1002-C) CAP in AL 49420, AL 49420A, and AL 49420B.

2. The Commission refers the matter to CPED to take whatever action it finds appropriate.

California Public Utilities Commission
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This Resolution is effective today.

I hereby certify that this Resolution was adopted by the California Public Utilities Commission at its regular meeting on February 15, 2024. The following Commissioners approved it:

Rachel Peterson
Executive Director