

Decision _____

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.

R. _____

**ORDER INSTITUTING RULEMAKING PROCEEDING TO CONSIDER
CHANGES TO THE COMMISSION’S CARRIER OF LAST RESORT RULES**

Summary

This proceeding institutes a rulemaking to consider changes to the California Public Utilities Commission’s Carrier of Last Resort rules adopted in Decision (D.) 96-10-066 and affirmed in D.12-12-038.

1. Background

Assembly Bill (AB) 3643, enacted in 1994, directed the California Public Utilities Commission (Commission) to initiate a proceeding to ensure universal telecommunications service includes “[e]ssential telecommunications services” that are “provided at affordable prices to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations.”¹

In D.95-07-050, the Commission proposed that each of the incumbent Local Exchange Carriers (LECs) be designated the Carrier of Last Resort (COLR) in

¹ Stats. 1994, Ch. 278 (Polanco and Moore)

their respective service areas until such time that another carrier or carriers are designated to be COLRs in those areas. 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” and meets other Commission-approved qualifications.² The Commission adopted rules on COLR obligations (COLR Rules) in Decision (D.) 96-10-066, emphasizing that the COLR concept “is important to universal service policy because it ensures that customers receive service.”³ Decision 96-10-066 designated each of the incumbent LECs listed in its Attachment A as the COLR in their respective service areas (also called geographic study areas, or GSAs) at least until such time that another carrier or carriers are designated as the COLR in those areas.⁴ Decision 12-12-038 affirmed the Commission’s COLR Rules and revised the elements of basic service.⁵

² D.96-10-066 at 109. Residential Basic Telephone Service, or “basic service” currently involves at a minimum, that nine service elements must be offered on a nondiscriminatory basis by any carrier providing within California, including Lifeline rates for eligible customers, free access to 9-1-1, Telephone Relay Service, and directory and operator services. Any carrier may use any technology to satisfy any obligation to provide basic service. Available as of this writing at: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program/broadband-public-feedback/basic-service-definition>.

³ *Id.*, at 193.

⁴ *Id.*, at 163.

⁵ *See*, D.12-12-038 at Appendix A. The elements of basic service include the following:

- 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;

Footnote continued on next page.

The COLR Rules require a designated COLR to serve all customers upon request, both residential and business, who are located within the COLR's designated service area, including high-cost GSAs.⁶

The COLR Rules also allow competitive local exchange carriers to apply to become a designated COLR or to compete in a GSA without being designated a COLR.⁷ The Commission's COLR Rules provide that a designated COLR retains its obligations until another carrier is designated.⁸

The Commission's COLR Rules also include a procedure to replace the last remaining COLR.⁹ Appendix B of D.96-10-066 contains the Commission's Universal Service Rules, including 6.D.1, which designates all incumbent LECs listed in Attachment A as the COLR in all their respective service areas at least until such time that another carrier or carriers are designated as the COLR,¹⁰ and Rule 6.D.7, which allows a designated COLR to opt out of its obligations by advice letter unless it is the only carrier remaining in the service territory or a new COLR has been designated as a result of an auction.¹¹

Under Appendix C, Section 6(c) in D.12-12-038 and Appendix B, Section(c) in D.96-10-066, the Commission can grant a COLR withdrawal application in one of two ways: (a) another carrier is identified and is willing to serve as a COLR or

- 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.

⁶ D.96-10-066 at 109.

⁷ *Id.*, at Appendix B, Adopted Universal Service Rules Part 6.D.2.

⁸ *Id.*, at 109.

⁹ *Id.*

¹⁰ *Id.*, at 163.

¹¹ *Id.*

(b) a reverse auction is held, and the result is another carrier comes forward and is willing (and able) to serve as a COLR. If no replacement COLR is identified in the application or if a replacement COLR does not come forward once the application has been filed, the Commission must hold a reverse auction. If no replacement carrier is identified in the reverse auction process, then the Commission must deny the COLR withdrawal application under our current rules.

2. Preliminary Scoping of Issues

The preliminary scope of issues in the proceeding is set forth below, in accordance with Rule 7.1(d) of the Commission's Rules of Practice and Procedure (Rule) In general, the purpose of this proceeding is to consider whether the Commission should revise its COLR rules and, if yes, what those revisions should be. Interested individuals and entities are asked to file and serve proposals responsive to the questions below by September 30, 2024. Replies to the proposals are due on or before October 30, 2024.

- a. Is it still necessary for the Commission to maintain its COLR rules? Here, the Commission adopts a rebuttable presumption that the COLR construct remains necessary, at least for certain individuals or communities in California.
- b. Should the Commission revise the definition of a COLR, and if yes, how should the Commission revise that definition? What should be the responsibilities of a COLR?
- c. Should the Commission revise how it defines a COLR's service territory?¹²

¹² D. 96-10-066 uses interchangeably service areas/territory and geographic study areas (GSAs) to refer to the geographic span a COLR in which a COLR offers service. *See*, Finding of Fact 88, GSAs are census block groups.

- d. Are there regions or territories in California that may no longer require a COLR? Are there regions that require COLR service? If yes, how should the Commission distinguish between the two? What criteria should be met for a region or territory to no longer require COLR designation?
- e. Can the Commission require Voice over Internet Protocol (VoIP) providers to be COLRs? If yes, should the Commission designate VoIP providers as COLRs?
- f. Can COLR service be provisioned using wireless voice service? Can the Commission direct wireless voice providers to serve as COLRs? If yes to both, should the Commission designate wireless voice providers as COLRs?
- g. If the Commission does not have the authority to require a wireless voice provider to offer COLR service, is a wireless voice provider eligible to volunteer to be a COLR? If yes, should the Commission grant such an application? Should the requirements of a potential wireless COLR be different than a COLR offering Plain Old Telephone Service (POTS) or VoIP service?
- h. Should the Commission revise the requirements of basic service? If yes, which requirements or elements should be revised, and what should be those revisions?
- i. Should the Commission revise the subsidy amount offered for participation in the California High Cost Fund-B?¹³ What is an appropriate subsidy amount and how should it be calculated?
- j. Should the Commission revise its rules for how and when a COLR is allowed to withdraw from its designated service territory? If so, how should the Commission revise its rules? Should the Commission require that the service of a potential replacement COLR be functionally similar to that

¹³ The available CHCF-B support for residential basic service in California has decreased since 1996, when it totaled \$352 million per year for all carriers to \$22 million in 2020–21.

- of the current COLR? If yes, what similar functionality requirements should the Commission adopt?
- k. When should a COLR seeking to withdraw be required to notify residents in the COLR territory of its request to withdraw? What should be included in the contents of that notification? What method(s) should be used for notification?
 - l. If a COLR applies to withdraw, and a new COLR is designated, is there a need for a customer transition period? If yes, how long should that transition period last? What customer service protections, if any, should the Commission impose as part of a customer transition period? What other elements or processes, other than customer protections, should be provided in a customer transition period? How long should a customer transition period last?

3. Initial Categorization; Ex Parte Communications; Need for Hearing

The Commission's Rules of Practice and Procedure require that an Order Instituting Rulemaking preliminarily determine the category of the proceeding and the need for hearing. As a preliminary matter, we determine that this proceeding is ratesetting because some of the issues in Section 2, Initial Scope, may require changes to basic service requirements or impact the collection and expenditure of ratepayer monies, including the California High Cost Fund-B. Accordingly, ex parte communications are restricted and must be reported pursuant to Rule 8.1 et seq.

As a preliminary matter, we determine that hearings are necessary. That assessment is subject to the further determination of the assigned Commissioner at the time of the issuance of the Scoping Memo.

4. Preliminary Schedule

The preliminary schedule is set forth below. The Assigned Commissioner and Administrative Law Judge (ALJ) have the authority to set other dates in the proceeding or modify those below as necessary.

EVENT	DATE
OIR issued	Day 1
Deadline for requests to be on service list	Day 20
Initial proposals filed and served	September 30, 2024
Reply Comments to initial proposals, filed and served	October 30, 2024
Revisions to initial proposals, filed and served	December 6, 2024
Prehearing Conference	Q4 2024

The determination on the need for further procedural measures, including the scheduling of a prehearing conference (PHC), discovery, technical workshops, public participation hearings and/or evidentiary hearings will be made in one or more rulings issued by the Assigned Commissioner. Any party that believes an evidentiary hearing is required may address such need for hearing in comments and reply comments on this OIR.

The assigned Commissioner or the assigned ALJ may change the schedule to promote the efficient and fair administration of this proceeding. Today's decision sets a due date for comments and reply comments on the OIR. The schedule for the remainder of the proceeding will be adopted in the Assigned Commissioner's Scoping Memo.

The Commission intends to complete this proceeding within 18 months of the date this decision is adopted. (Pub. Util. Code § 1701.5(b).)

If there are any workshops in this proceeding, notice of such workshops will be posted on the Commission's Daily Calendar to inform the public that a

decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

5. Respondents

All of the COLRs in California are named as respondents to this OIR, including: AT&T California, Frontier, and the Small LECs.¹⁴ Additionally, since the issues under consideration in this proceeding impact all voice services, we encourage participation from cable companies that offer voice service, such as Comcast, Charter, and Cox Communications, as well as the participation of mobile voice providers, such as AT&T Mobility, Verizon and T-Mobile.

6. Service of OIR

In the interest of broad notice, this OIR will be served on the official service lists for R.22-03-016 and R.20-02-008. We additionally provide service of this OIR to the entities and individuals listed in Appendix A. Service will also be provided to the list of Tribes maintained by the Native American Heritage Commission.

Service of the OIR does not confer party status or place any person who has received such service on the Official Service List for this proceeding. Instructions for obtaining party status or being placed on the official service list are given below.

¹⁴ The Small LECs consist of following thirteen small Local Exchange Carriers: Kerman Telephone Co., Foresthill Telephone Co., Hornitos Telephone Company, Pinnacles Telephone Co., Volcano Telephone Company, Winterhaven Telephone Company, Happy Valley Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company, The Ponderosa Telephone Co., Calaveras Telephone Company, Cal-Ore Telephone Co., and Ducor Telephone Company.

7. Filing and Service of Comments and Other Documents

Filing and service of comments and other documents in the proceeding are governed by the Commission's Rules.

When serving documents on the assigned Commissioner, advisors to the assigned Commissioner, and the assigned ALJ(s) parties must only provide electronic service. Parties must not send hard copies of documents unless specifically instructed to do otherwise.

8. Addition to Official Service List

Addition to the official service list is governed by Rule 1.9(f). Any entity or interested individual will be added to the "Information Only" category of the official service list upon request, for electronic service of all documents in the proceeding, and should do so promptly to ensure timely service of comments and other documents and correspondence in the proceeding. (See Rule 1.9(f).)

The request must be sent to the Process Office by e-mail (process_office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California 94102). Please include the Docket Number of this rulemaking in the request.

Entities and interested individuals who file responsive comments thereby become parties to the proceeding (*see* Rule 1.4(a)(2)) and will be added to the "Parties" category of the official service list upon such filing. To assure service of comments and other documents and correspondence in advance of obtaining party status, persons should promptly request addition to the "Information Only" category as described above; they will be removed from that category upon obtaining party status.

9. Subscription Service

Entities and interested individuals not wishing to become parties may monitor the proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the official service list to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov/>.

10. Intervenor Compensation

Intervenor Compensation is permitted in this proceeding. Pursuant to Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by 30 days after the PHC. As a PHC is not anticipated in this proceeding, notices of intent to claim compensation must be filed no later than 30 days after the issuance date of this OIR. Parties that are not familiar with participation in Commission proceedings may contact the Commission's Public Advisor to learn more about the Intervenor Compensation process.

11. Public Advisor

Any person or entity interested in participating in this rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov. The TTY number is (866) 836-7825.

12. Public Outreach

Pub. Util. Code Section 1711(a) states:

Where feasible and appropriate, except for adjudication cases, before determining the scope of the proceeding, the commission shall seek the participation of those who are likely to be affected, including those who are likely to benefit from, and those who are potentially subject to, a decision in

that proceeding. The commission shall demonstrate its efforts to comply with this section in the text of the initial scoping memo of the proceeding.

Public outreach will be described in the scoping memo of the assigned Commissioner.

O R D E R

IT IS ORDERED that:

1. This Order Instituting Rulemaking is adopted pursuant to Rule 6.1 of the California Public Utilities Commission's Rules of Practice and Procedure.
2. The preliminary categorization is ratesetting.
3. The preliminary determination is that hearing is needed.
4. The preliminary scope of issues is as stated above in Section 2.
5. The preliminary schedule, including the filing deadlines as described above in Section 4, is adopted.
6. All of the carriers of last resort in California, as listed above in Section 5, shall respond to this Order Instituting Rulemaking.
7. The Executive Director will cause this Order Instituting Rulemaking to be served on the service lists for the Commission proceedings R.22-03-016 and R.20-02-008, the list of Tribes maintained by the Native American Heritage Commission, and on the agencies and individuals listed in Appendix A.
8. Any party that expects to claim intervenor compensation for its participation in this Rulemaking must file its notice of intent to claim intervenor compensation in accordance with Public Utilities Code Section 1804(a)(1) and Rule 17.1(a)(2) of the California Public Utilities Commission's Rules of Practice and Procedure.

This order is effective upon issuance.

Dated _____, at San Luis Obispo, California

APPENDIX A

APPENDIX A

List of specific entities this Order will be served on, in addition to the Service Lists discussed in Section 5.

- League of California Cities (Cal Cities): ccoleman@cacities.org, ddolfie@cacities.org, canderson@calcities.org, bismarck@cacities.org, dconklin@calcities.org, cmanning@calcities.org
- California State Association of Counties (CSAC): awaelder@counties.org, jwong-hernandez@counties.org, fmcting@counties.org, gknaus@counties.org
- Rural County Representatives of California (RCRC): bhayes@rcrcnet.org, lkammerich@rcrcnet.org, pblacklock@rcrcnet.org, sheaton@rcrcnet.org, trhine@rcrcnet.org
- County Counsels' Association of California: jhenning@counties.org
- California Association of Councils of Government (CALCOG): bhiggins@calcog.org, nzoma@calcog.org
- County Counsels: donna.ziegler@acgov.org, charlesmckee@gmail.com, ggillott@amadorgov.org, bstephens@buttecounty.net, thomas.geiger@cc.cccounty.us, joelcampbell@co.del-norte.ca.us, david.livingston@edcgov.us, dcederborg@fresnocountyca.gov, erichavens@co.imperial.ca.us, jvallejo@inyocounty.us, mraison@kerncounty.com, diane.freeman@co.kings.ca.us, dharrison@counsel.lacounty.gov, regina.garza@co.madera.ca.gov, bwashington@marincounty.org, sdahlem@mariposacounty.org, forrest.hansen@countyofmerced.com, margaret@prenticelongpc.com, ssimon@mono.ca.gov, girardlj@co.monterey.ca.us, sedwards@co.calaveras.ca.us, rstout@countyofcolusa.com, wvanasek@countyofglenn.net, smiles@co.humboldt.ca.us, anita.grant@lakecountyca.gov, Amanda@prenticelongpc.com, curtisc@mendocinocounty.org, fhansen@countyofmerced.com, thomas.zeleny@counyofnapa.org, kit.elliott@co.nevada.ca.us, leon.page@coco.ocgov.com, kschwab@placer.ca.gov, GretchenStuhr@countyofplumas.com, mintran@rivco.org, tom.bunton@cc.sbcounty.gov, Claudia.silva@sdcountry.ca.gov, paul.zarefsky@sfcityatty.org, kijohnson@sjgov.org, rvanmull@co.santa-barbara.ca.us, james.williams@cco.sccgov.org, Jason.Heath@santacruzcounty.us, rcruse@co.shasta.ca.us, travisl@saccountry.net, bthompson@cosb.us,

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(END OF APPENDIX A)