Decision **~~PROPOSED DECISION OF COMMISSIONER HOUCK (Mailed 4/11/2025)~~**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Proceeding to Consider Amendments to General Order 133.	Rulemaking 22-03-016

DECISION ADOPTING GENERAL ORDER 133-E

TABLE OF CONTENTS

Title **Page**

DECISION ADOPTING GENERAL ORDER 133-E

Summary

This decision adopts General Order (GO) 133-E, included as Appendix A. GO 133 sets service quality standards for telecommunications services. Noting the increase in service outages and duration for plain old telephone service (POTS) ~~and wireless voice service,~~ as well as the excessively high number of voice over the internet protocol (VoIP) service outages, this decision revises service restoration requirements for POTS and adopts new rules for VoIP service. New rules for wireless service will be finalized in Phase 2 of this proceeding.

This decision also adopts new or revised rules for several customer service standards, including customer service installation and answer time standards, for POTS and VoIP service. New rules for wireless service will be considered in Phase 2 of this proceeding.

This proceeding remains open.

1. Procedural Background

In response to Petition 21-10-003, on March 17, 2022, the California Public Utilities Commission (Commission) adopted an Order Instituting Rulemaking proceeding (OIR or proceeding) to consider proposed amendments to the Commission's General Order (GO) 133. GO 133 sets minimum service quality standards for telecommunications services and includes an enforcement mechanism. The Commission last revised GO 133 (now GO 133-D) in Decision (D.) 16-08-021.

A prehearing conference (PHC) was held on June 1, 2022, to discuss the issues of law and fact and determine the need for a hearing and schedule for resolving the matter.

On June 22, 2022, the Assigned Commissioner issued a Scoping Memo and Ruling (Scoping Memo), setting forth the category, issues to be addressed, and schedule of the proceeding.

On August 31, 2022, the Assigned Administrative Law Judge (ALJ) issued a ruling (August Ruling) requesting comment on the conclusions and findings made in the Network Exam, ordered in Decisions (D.) 13-02-023 and D.15-08-041.[1,2] This ruling also sought comment related to the type of information that the Federal Communications Commission (FCC) designed for its Automated Reporting Management Information System (ARMIS) and whether this Commission should continue collecting that information. Opening comments were to be due on October 3, 2022, with reply comments due on October 17, 2022. However, on September 7, 2022, AT&T and Frontier filed a joint request, asking that the deadlines for opening and reply comments be extended by 30 days. On September 14, 2022, the assigned ALJ issued an e-mail ruling extending the deadlines for opening and reply comments by seven days.

On September 20, 2022, AT&T and Frontier made the following request:

> AT&T and Frontier jointly request that the Commission issue a subpoena for documents in the possession, custody or control of Economics and Technology, Inc. Specifically, we request the following information from Economics and Technology, Inc.: all materials including, but not limited to workpapers, source data, computer programs (i.e. code), integrated databases, spreadsheets, geographical mappings

[1] *See,* Examination of the Local Telecommunications Networks and Related Policies and Practices of AT&T California (AT&T) and Frontier California (Frontier), Study conducted pursuant to the California PUC Service Quality Rulemaking (R.) 11-12-001, D.13-02-023, and D.15-08-041, April 2019 (Phase 1 report).

[2] The Network Exam is an examination of the telecommunications networks' performance and related services, policies, and practices of Pacific Bell Telephone Company dba AT&T California (AT&T) and Verizon California Inc. (Verizon, currently Frontier California).

> (including but not limited to, census block to wire center mappings), accounting mappings (including account codes used to "define" specific underlying technologies), methodologies, and documents that support the analyses, summaries, findings, conclusions, recommendations, charts, figures, and tables in the Examination of the Local Telecommunications Networks and Related Policies and Practices of AT&T California and Frontier California (Network Exam) Phases 1 and 2 produced by Economics and Technology, Inc. Additionally, we request communications between Economics and Technology, Inc. and Commission Staff. The Preface of the Network Exam Reports state that Communications Division Staff oversaw the Network Exam, relied on other CPUC and public data sources, and relied on input from Staff's on-site inspections. Finally, we request an unredacted copy of the Network Exam Phase 2 Report.[3]

On October 6, 2022, the Assigned ALJ issued an email ruling extending the deadlines for opening and reply comments on the August Ruling by another 14 days.

On October 7, 2022, the Assigned ALJ issued a ruling suspending the deadlines for filing opening and reply comments on the August Ruling, ordering AT&T and Frontier to respond to questions about the joint subpoena request, including the late timing of their requests.[4] Given that at least some of the information requested by the two carriers was treated as confidential, the ruling

[3] Email from David Discher, attorney for AT&T, sent September 20, 2022.

[4] See October 7, 2022 ruling of assigned ALJ at 3: "In addition to the joint subpoena request, both companies have made other informal requests for this exact information, or similar information, to the Commission's Communications Division (CD), which the Commission has treated as Public Records Act requests. Given that the companies have claimed that at least some of the information they now seek is confidential, and the Commission allowed confidential treatment of that information in Decision (D.) 20-12-021, the companies may not be able to access that information absent a Commission ruling or order."

also ordered parties to meet and confer to devise a process for distributing this information.

With parties not reaching an agreement, on November 15, 2022, the Assigned ALJ issued a ruling releasing under protective order to all parties that sign a non-disclosure agreement roughly 1,900 files used to create the two Network Exam Reports, as well as unredacted copies of the two Network Exam Reports. The November 15, 2022 Ruling also restarted the comment period initiated in the August Ruling. In total, opening comments were delayed from October 3, 2022 to December 21, 2022. Reply comments were delayed from October 17, 2022 to January 20, 2023.[5]

On December 21, 2022, the following parties filed comments:

- CTIA;[6]
- The Small Local Exchange Carriers (LECs);[78]
- California Broadband & Video Association;

[5] On December 13, 2022, the assigned ALJ granted the extension request made by the California Cable & Telecommunications Association, extending the reply comment deadline from January 6, 2023 to January 20, 2023. On March 13, 2023, California Cable & Telecommunications Association filed notice that the organization changed its named to the California Broadband & Video Association. Throughout this decision we utilize this new name.

[6] CTIA—The Wireless Association (CTIA) is a trade association whose members include wireless carriers, device manufacturers, suppliers as well as apps and content companies.

[7] An ILEC is an incumbent local exchange carrier. 47 USC Section 251(h)(1) defines an "incumbent local exchange carrier" as the local exchange carrier (meaning the telephone company) that on February 8, 1996, provided telephone exchange service in a specific area and on February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b)), or became a successor at a later date.

[8] The Small LECs, also called Small ILECs and general rate case (GRC) ILECs, includes the following: Foresthill Telephone Co., Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company, and Winterhaven Telephone Company.

- Consolidated Communications of California Company (Consolidated Communications);
- The Utility Reform Network (TURN), Center for Accessible Technology (CforAT), and Communications Workers of America, District 9 (CWA);
- The Public Advocates Office at the California Public Utilities Commission (Cal Advocates);
- Pacific Bell Telephone Company, AT&T Corp., Teleport Communications America, LLC, New Cingular Wireless PCS, LLC, AT&T Mobility Wireless Operations Holdings, Inc., and Santa Barbara Cellular Systems, Ltd. (AT&T);
- Sonic Telecom, LLC;
- Small Business Utility Advocates (SBUA);
- Cellco Partnership dba Verizon Wireless (U 3001 C) on behalf of itself and its wireless affiliates operating in California and MCImetro Access Transmission Services LLC (U 5253 C) (collectively, "Verizon"); and
- Frontier California Inc., Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc. (Frontier).

On January 20, 2023, the following parties filed reply comments:

- Cal Advocates;
- SBUA;
- Rural County Representatives of California (RCRC);
- Verizon;
- CTIA;
- Frontier;
- California Broadband & Video Association;
- AT&T;
- TURN, CforAT and CWA; and
- The Voice on the Net Coalition.

On April 17, 2023, the Assigned ALJ issued a ruling serving a report on outages prepared by the Commission's Communications Division Staff (Staff Report). This Ruling requested comments from interested parties on the information presented in the Staff Report.

On May 18, 2023, the following parties filed comments:

- Southern California Edison Company;
- The Voice on the Net Coalition;
- Cal Advocates;
- Frontier;
- TURN, CforAT and CWA;
- Consolidated Communications;
- Verizon;
- California Broadband & Video Association;
- The Small LECs;
- CTIA;
- AT&T; and
- SBUA.

On June 2, 2023, the following parties filed reply comments:

- RCRC;
- Frontier;
- The Small LECs;
- California Broadband & Video Association;
- CTIA;
- TURN, CforAT and CWA;
- AT&T;
- Verizon; and
- SBUA.

On September 7, 2023, the Commission hosted a workshop to discuss the efficacy of several service quality metrics and enforcement measures proposed by parties and others found during Staff research. On September 21, 2023, The California Broadband & Video Association and Cal Advocates filed and served a summary of the workshop with all presentations presented at the workshop attached. Parties were able to file and serve comments on the summary and presentations by October 5, 2023, with reply comments due by October 12, 2023.

On October 5, 2023, the following parties filed and served opening comments on the workshop summary:

- SBUA;
- Verizon;
- AT&T;
- TURN, CforAT and the California Alliance for Digital Equity (CADE);
- California Broadband and Video Association;
- CTIA; and
- Cal Advocates.

On October 12, 2023, the following parties filed and served reply comments:

- SBUA;
- Verizon;
- AT&T;
- TURN, CforAT and CADE;
- California Broadband and Video Association;
- CTIA;
- Cal Advocates; and
- Voice on the Net Coalition.

On November 2, 2023, the Commission extended the statutory deadline for this proceeding to December 31, 2024.

On June 27, 2024, the Assigned ALJ issued a ruling (June Ruling) serving a Staff Proposal on this proceeding's Service List. On September 3, 2024, the following parties filed and served opening comments:

- TURN, CforAT, and RCRC;
- Cal Advocates;
- The Small LECs;
- Voice on the Net Coalition;
- California Broadband & Video Association;
- Verizon;
- AT&T;
- National Lifeline Association;
- US Telecom; and
- Frontier.

On September 17, 2024, the following parties filed and served reply comments:

- Cal Advocates;
- Verizon;
- Frontier;
- The Small LECs;
- TURN and CforAT;
- CTIA;
- Consolidated Communications;
- AT&T;
- Voice on the Net Coalition;
- SBUA;

- Velocity Communications, Inc. and ShastaBeam;
- California Broadband & Video Association; and
- Sonic Telecom, LLC.

On December 19, 2024, the Commission extended the statutory deadline for this proceeding to February 28, 2026.

1.1. Submission Date

This matter was submitted on March 28, 2025, upon the issuance of a ruling by the Assigned ALJ.

2. Jurisdiction

Pursuant to Public (Pub.) Utilities (Util.) Code[9] Section 2896(c), the commission shall require telephone corporations to provide customer service to telecommunication customers that includes, but is not limited to, reasonable statewide service quality standards, including, but not limited to, standards regarding network technical quality, customer service, installation, repair, and billing.

The Commission has jurisdiction over public utilities, including public utility services and facilities for telephone corporations.[10] Under Pub. Util. Code Section 216, a "public utility" includes every "telephone corporation"[11] where service is performed, or a commodity is delivered to the public or any portion thereof. The definition of a "telephone corporation" includes "every corporation or person owning, controlling, operating, or managing any telephone line for compensation in this state."[12] A "telephone line" includes "all conduits, ducts,

[9] All subsequent references are to the Public Utilities Code unless otherwise specified.

[10] *See,* Cal. Const., Art. XII, Sections 1-6; Pub. Util. Code Section 701.

[11] Pub. Util. Code Section 234.

[12] *Id.*

poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, or controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires."[13] California's Constitution specifically extends the Commission's jurisdiction to companies engaged in "the transmission of telephone and telegraph messages."[14] This includes services delivered over any technology, including but not limited to, traditional copper lines, coaxial cable, fiber optic cable, and mobile or fixed wireless radios.

The Commission's authority over public utilities includes oversight over both public utility services and facilities.[15] The Commission is required to ensure that utilities, including telephone corporations, "furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities … as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."[16] The Commission also has an ongoing responsibility to ensure the reasonableness and sufficiency of utility facilities[17] and may order "additions, extensions, repairs, or improvements to, or changes in" utility facilities that the Commission finds "ought reasonably to be made."[18]

---

[13] Pub. Util. Code Section 233.
[14] Cal. Const., Art. XII, Section 3.
[15] *See,* Cal. Const., Art. XII, Sections 1-6; Pub. Util. Code Section 701.
[16] Pub. Util. Code Section 451.
[17] *Id.*, at Section 761.
[18] *Id.*, at Section 762.

Under California law, the means by which service is provided, whether it be traditional landline, wireless technology, or IP-enabled, does not affect whether the provider meets the definition of a public utility telephone corporation. VoIP service providers fall within the definition of "Telephone Corporation" under Pub. Util. Code Section 234, and their facilities fall within the definition of "Telephone Line" pursuant to Pub. Util. Code Section 233. Thus, VoIP providers are subject to the Commission's jurisdiction.

Wireless carriers are "telephone corporations" and therefore public utilities under Pub. Util. Code Sections 216, 233, and 234. Pursuant to 47 United States Code (USC) Section 322(c)(3), states may regulate neither wireless rates nor entry into the wireless market,[19] but they retain jurisdiction over "other terms and conditions" of wireless service, including service quality.

Under Pub. Util. Code Section 2107, the Commission has authority to impose penalties for violations of its decisions, rules, or requirements of not less than $500 nor more than $100,000 per offence.[20] Under Pub. Util. Code Section 2108, every violation is a separate and distinct offence, with continuing violations

[19] (A) Notwithstanding Sections 2(b) and 221(b) [47 USC Sections 152(b) and 221(b)], no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

[20] Pub. Util. Code, Section 2107 states:

> Any public utility that violates or fails to comply with any provision of the Constitution of this state or of this part, or that fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not otherwise been provided, is subject to a penalty of not less than five hundred dollars ($500), nor more than one hundred thousand dollars ($100,000) for each offense.

calculated as a separate and distinct offence for each additional day the violation continues.[21]

3. Issues

Decision 16-08-021, issued on August 29, 2016, adopted GO 133-D, which revised the minimum service quality standards that legacy Plain Old Telephone Service (POTS) service providers must meet.[22] The standards include installation interval, installation commitments, customer trouble reports, out-of-service repair interval, and answer time.[23] Additionally, D.16-08-021 created a penalty mechanism, including the option to make investments in lieu of penalties.[24] Lastly, D.16-08-021 changed reporting requirements for POTS carriers and extended some of the outage reporting requirements to wireless and interconnected VoIP carriers.[25]

The Commission opened this OIR to assess whether the existing GO 133-D service quality standards and measures continue to meet the Commission's mandates and goals and remain relevant to the current regulatory environment and market for telecommunications services, including consideration of service quality standards applicable to VoIP, wireless, and broadband Internet service.

---

[21] Pub. Util. Code, Section 2108 states:

> Every violation of the provisions of this part or of any part of any order, decision, decree, rule, direction, demand, or requirement of the commission, by any corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

[22] D.16-08-021, *Decision Adopting General Order 133-D*, issued August 29, 2016, at Ordering Paragraph 1; Attachment B.

[23] D.16-08-021 at Ordering Paragraph 1; Attachment B, Section 3.

[24] *Id.*, at Ordering Paragraph 1; Attachment B, Section 9.

[25] D.09-07-019, *Decision Adopting General Order 133-C and Addressing Other Telecommunications Service Quality Reporting Requirements*, issued July 16, 2009, at 12; *see also* Public Utilities (Pub. Util.) Code Section 2896.

Additionally, the Commission opened this OIR to consider whether the existing enforcement framework in GO 133-D is adequate to improve substandard voice communications service. The Scoping Memo divides this proceeding into two phases. This decision resolves Phase 1, addressing the following issues:

1. Are there any existing service quality metrics that should be extended to wireless and interconnected VoIP services?
2. Should the Commission modify any of the existing service quality metrics and standards or develop new service quality standards and reporting requirements applicable to wireless and interconnected VoIP services? Are there specific metrics that should apply to one type of technology and not others? Are there reporting requirements or metrics that the Commission should no longer mandate?
3. Does GO 133-D's enforcement framework and penalty mechanism serve the public interest in ensuring adequate and appropriate investments in the state's telecommunications infrastructure? If not, how should the Commission modify GO 133-D to achieve this outcome in a more effective manner?
    a. Should the enforcement framework and penalty mechanism continue to determine the out of service repair interval fine using adjusted results? Should the out of service repair interval fine only be determined using unadjusted results?
    b. Should the Commission revise the out of service repair interval measurement, reporting mechanism, enforcement framework, and penalty mechanism to eliminate the currently permitted exclusions, including Sundays, federal holidays and certain repair tickets, as listed in GO 133-D Section 3.4 (b)?

The June 2024 Ruling, which issued the Staff Proposal, asks a number of questions to pursue alternative approaches in lieu of fines and the responses are described below. How can the Commission ensure reforms to the in lieu of fine

penalty mechanism result in meaningful service quality improvements for Californians? Should the in lieu of fine penalty mechanism (whether it applies to capital investment, operational expenses (OpEx), both, or other) be made additional to, rather than in lieu of, the proposed automatic customer credit fine mechanism? If so, should it replace the proposed general fine discussed in Section 1.6? How should the investment in lieu of fine be calculated? For example, would a base investment in lieu of amount equivalent to double the base fine and general fund fine of the aggregated base fine amount be significant enough to provide meaningful benefit to customers in California? If not, how can the Commission determine an adequate amount for an in lieu of fine penalty and how should it be calculated?

Should Communications Division Staff be given the authority to direct and approve the location that telephone corporations would invest capital or OpEx in lieu of a fine? If not, how should investment location be determined? Should Disadvantaged Communities (DACs) and Communications Areas of Affordability Concerns (AACs) receive priority for investment?

Are there any other enforcement mechanisms that the Commission should consider for improving out-of-service repair compliance statewide?[26]

Throughout the proceeding, the Commission is considering impacts on environmental and social justice communities, including improvements to better achieve any of the nine goals of the Commission's Environmental and Social Justice Action Plan. Additionally, in the regular course of any proceeding, the Commission examines its impact on public safety, given the potential and

[26] June 2024 Ruling, at 6.

significant risks to public safety caused by outages and degraded service, including access during emergencies.

4. Outage Data

The Commission has taken extensive comment from parties on the issues above, including data documenting telecommunications service outages from multiple sources, as well as hearing from members of the public.

The Assigned ALJ's ruling of April 17, 2023, which served the Staff Report on the Service List, identified the following data sets:

- Out of Service Repair Interval, one of five metrics included in the Commission's General Order (GO) 133-D;[27]
- The FCC's Network Outage Reporting System (NORS);[28]
- Cal OES outage data;[29] and
- The Commission's Consumer Affairs Branch (CAB) case records.

---

[27] GO 133-D requires that 90 percent of customer repair tickets indicating a service disruption be restored within 24 hours.

[28] The FCC requires wireline, cable, satellite, wireless, and Signaling System 7 voice providers to report network outages to NORS. These providers also must submit this data concurrently to the CPUC.

[29] Title 19 California Code of Regulations, Division 2, Chapter 1.5 defines a community isolation outage is an outage that meets the below threshold criteria for each service type: TDM (wireline) voice service — for telecommunications service provided by facilities-based carriers, other than mobile telephony service or VoIP service, herein referred to as wireline, an outage that lasts at least 30 minutes and potentially affects (A) at least 100 end users in a single zip code, or (B) at least 50% of end users in a ZIP code with fewer than 100 end users.

• Voice over Internet Protocol (VoIP) service — for telecommunications service provided by VoIP or Internet Protocol enabled service, an outage that lasts at least 30 minutes and potentially affects (A) at least 100 end users in a single zip code, or (B) at least 50 percent of end users in a zip code with fewer than 100 end users.

• Wireless voice service — for telecommunications service provided by mobile telephony service, an outage that lasts at least 30 minutes and affects at least 25 percent of a carrier's coverage area in a single zip code.

The data, analysis of it, and party positions are discussed below.

4.1. GO 133-D Out of Service Repair Interval Data

GO 133-D requires POTS carriers to report on their out of service repair intervals (OOS) on a quarterly basis. OOS is the time it takes from the receipt of a customer[30] outage ticket to when the service is restored. The current requirement applies to TDM[31]-based voice services offered by GRC ILECs, URF carriers[32] with 5000 or more customers, and all carriers of last resort (COLR). All of these carriers must restore 90 percent of the customer service repair tickets within 24 hours, adjusted to exclude Sundays, federal holidays, delays beyond the carrier's control, and catastrophic events.

The April 2023 Staff Report indicates that the combined Adjusted OOS for all reporting carriers from 2018 through 2021 ranged from 58.1 percent to 69.1 percent, well below the requirement that 90 percent of all customer outage tickets be resolved within 24 hours.[33] The Unadjusted OOS consistently performed at about ten percentage points below their corresponding Adjusted OOS, ranging between 48.9 percent to 60.4 percent.[34] For the same four-year span, the URF ILECs (i.e., AT&T California and Frontier) collectively had the worst OOS

---

[30] Customer refers to both residential and small business customers.

[31] Plain old telephone service (POTS) and time division multiplexing (TDM) are used interchangeably to describe legacy telephone or voice service. TDM is a legacy method of transmitting telephone signals where calls are routed through a service switching point, also known as a tandem switch.

[32] Uniform regulatory framework (URF) URF carriers include ILECs regulated through the Commission's uniform regulatory framework established in Order Instituting Rulemaking on the Commission's Own Motion to Assess and Revise the Regulation of Telecommunications Utilities ("URF Phase 1 Decision") [D.06-08-030] (2006), competitive local exchanges carriers (CLECs) and interexchange carriers.

[33] April 2023 Staff Report, at 8.

[34] *Id*.

performance among the three carrier types, with 59.2 percent of customer outage tickets being resolved within 24 hours in 2018, 44.5 percent in 2019, 50.7 percent in 2020 and 52.5 percent in 2021.[35] In particular, AT&T, the largest POTS provider in California, has seen a precipitous decline, only restoring 56 percent of outage tickets within 24 hours in 2018, and in 2023, restoring only 39 percent of outage tickets within 24 hours.[36] The Adjusted OOS for URF CLECs[37] (includes, among others, cable providers, such as Comcast, Charter and Cox) ranged from 86.7 percent to 97.5 percent while the Unadjusted OOS ranged from 79.5 percent to 85.6 percent.[38]

As a group, the GRC ILECs have consistently met the Adjusted OOS standard every year since the adoption of GO 133-D. In the four-year span from 2018 to 2021, the Adjusted OOS ranged from 94.2 percent to 97.5 percent. Similarly, GRC ILEC's Unadjusted OOS also outperformed the other two carrier types, ranging from 79.7 percent to 86.5 percent during the four-year span.[39]

4.2. NORS Data

The Network Outage Reporting System (NORS) is a FCC database on significant communications service disruptions from wireline, cable, satellite, wireless, and Signaling System 748 (SS7) providers. These providers are required to report network outages that last at least 30 minutes and meet other specific

[35] *Id.*, at 9.

[36] *Id.*, at 3-4.

[37] Competitive Local Exchange Carrier (CLEC), per Pub. Util. Code Sections 234 and 1001, and D.95-07-054, provides local telephone services in the service territories formerly reserved for ILECs, in competition with ILECs, and must obtain a Certificate of Public Convenience and Necessity (CPCN) from the Commission.

[38] April 2023 Staff Report, at 10.

[39] *Id.*, at 11.

thresholds. After identifying an outage, all reporting service providers must submit a NORS notification within 120 minutes to 24 hours and then provide a final report within 30 days of discovering an outage in their networks. In total, the FCC has 16 respective thresholds to determine whether a network outage must be reported, with the four most relevant being that wireline, wireless, cable telephony and VoIP providers all must report when 900,000 or more user-minutes are impacted.[40]

The April 2023 Staff Report includes NORS data from 2018 through 2021. In total, the FCC received over 15,000 NORS final reports for outages in California in those years. The outage breakdown between wireline and wireless networks remained consistent across the four years being examined (2018 through 2021). 2018 had the fewest number of outages with 2,030 reported; 1,524 were for wireline and 506 were for wireless. The number of reports increased to 4,028 in 2019 (3,171 for wireline and 857 for wireless) and remained above 4,600 outages in 2020 and 2021. During the four years from 2018 to 2021, wireline accounted for anywhere between 74 percent to 79 percent of the total outages, whereas wireless accounted for between 21 percent to 26 percent. In addition to an increase in the number of outages, there was a dramatic increase in the number of outages of longer durations. For example, in 2018, wireline carriers reported 432 outages in excess of 96 hours, with that total increasing to over 1,000 outages in California in both 2020 and 2021. In a similar manner, the number of wireless outages in excess of 96 hours increased from 31 in 2018 to 254 in 2021.

[40] *Id.*, at 24-26.

4.3. Cal OES Community Isolation Event Data

The April 2023 Staff Report includes data sets measuring outages that carriers provide to the Governor's Office of Emergency Services (Cal OES). Cal OES requires communications service providers that offer access to 9-1-1 service to notify Cal OES of community isolation outages.[41] All reporting service providers must notify Cal OES within 60 minutes of discovering a community isolation outage that limits the ability to make 911 calls or receive emergency notifications.[42]

Cal OES began collecting community isolation outage data in August 2020.[43] In 2021, POTS carriers reported 1,185 community isolation events in California. In 2022, POTS carriers reported 1,759 community isolation events. In 2023, POTS carriers reported 2,407 community isolation events. In 2021, wireless carriers reported 3,315 community isolation events. In 2022, wireless carriers reported 3,319 community isolation events. In 2023, wireless carriers reported

---

[41] Title 19 California Code of Regulations (CCR) Section 2480.1(a) defines a community isolation outage an outage that meets the below threshold criteria for each service type:

• TDM (wireline) voice service – for telecommunications service provided by facilities-based carriers, other than mobile telephony service or Voice over Internet Protocol (VoIP) service, herein referred to as wireline, an outage that lasts at least 30 minutes and potentially affects (A) at least 100 end users in a single zip code, or (B) at least 50 percent of end users in a ZIP code with fewer than 100 end users.

• Voice over Internet Protocol (VoIP) service – for telecommunications service provided by VoIP or Internet Protocol enabled service,64 an outage that lasts at least 30 minutes and potentially affects (A) at least 100 end users in a single zip code, or (B) at least 50% of end users in a zip code with fewer than 100 end users.

• Wireless voice service – for telecommunications service provided by mobile telephony service, an outage that lasts at least 30 minutes and affects at least 25 percent of a carrier's coverage area in a single zip code.

[42] California Government Code Section 53122(c)(1).

[43] Staff Report, at 29.

5,865 community isolation events. In 2021, VoIP carriers reported 9,000 community isolation events. In 2022, VoIP carriers reported 8,421 community isolation events. In 2023, VoIP carriers reported 7,181 community isolation events.[44]

4.4. This Commission's Consumer Affairs Branch (CAB) Data

The April 2023 Staff Report includes data maintained by CAB. CAB's primary role consists of answering questions and resolving utility complaints submitted by California consumers regarding utility services. CAB creates a case record for every interaction with consumers and categorizes each case. In 2020 and 2021 combined, CAB received 3,266 cases designated in the "service" category for communications service providers. By a significant margin (40 percent in 2020, and 38 percent in 2021), the most common complaint regarding telephone utility complaints was over service outages, followed by "delayed order or missed appointment" and "call quality." These three reasons, which align with GO 133-D service measures – out of service repair intervals, installation intervals, and installation commitments – collectively account for 76 percent of the total cases across the two years.[45]

4.5. Positions of Parties on Outage Data

Parties disagree over whether the outage data discussed above justifies revising GO 133-D and expanding it to VoIP and wireless service. Further, parties disagree over whether the data indicates that current service quality rules, including enforcement mechanisms, have worked. Parties representing

[44] Staff Report, at 29. Staff Proposal at 3. The Staff Report did not include data for 2023, while the Staff Proposal did.

[45] April 2023 Staff Report, at 23.

residential and business consumers and labor argue the existing service quality framework has not disciplined service quality in an adequate manner. Industry parties assert the record demonstrates that competition is the preferred manner in which to discipline service quality, and that the record does not support adopting more stringent service quality rules.

Cal Advocates asserts that the Staff Report shows that outages for wireless and interconnected VoIP have increased steadily and the "data trends included in the Staff Report echo prior evidence submitted in the record of this proceeding that highlight the presence of service quality issues for major communications services. Based on this assessment, Cal Advocates recommends that the Commission:

- apply the existing GO 133-D service quality standards to wireless and interconnected VoIP services;
- adopt new minimum service quality metrics for wireless, interconnected VoIP, and broadband services;
- revise and apply GO 133-D's enforcement mechanisms to all new and existing minimum service quality metrics; and
- adopt customer credits in addition to the revised enforcement mechanism.[46]

CforAT and TURN assert the analysis in the Staff Report "contains ample evidence indicating that both wireless and VoIP networks have experienced significant outages between 2018 and 2021..."[47] even when adjusted for changing

[46] Cal Advocates, Opening Comments on Staff Report, filed May 18, 2023, at 2-5. Cal Advocates proposes a number of new service quality metrics, including call failure rate, call drop rate, call setup time, repeat trouble reports, latency, jitter, packet loss, packet reordering, community outages, cell site outages, and delivered network speeds.

[47] CforAT and TURN, Opening Comments on Staff Report, filed May 18, 2023, at 6.

line counts.[48] CforAT and TURN contend that wireless carriers "are not doing an adequate job in addressing, or even understanding, these increased levels of outages…" as between 2018 and 2021, wireless carriers stated they had insufficient data to determine the cause of the outage, or the cause was unknown.[49] Regarding VoIP outages, CforAT and TURN assert that the number of VoIP outages compared to outages on other networks -- VoIP providers reported outages at a rate 3.2 times greater than POTS providers, and 14.1 times greater than wireless providers – justifies the Commission imposing service quality requirements on VoIP services.[50] CforAT, TURN, and RCRC all agree current GO 133-D metrics are not sufficiently granular to capture the full extent of service quality problems that effectively underreport outages in smaller communities.[51]

SBUA states that service outages are important to small businesses because they "rely heavily on reliable and uninterrupted communication services to conduct their business operations…" and "[a]ny disruption in communication services due to outages can result in lost productivity, lost revenue, and damaged reputation, which can be particularly detrimental for small businesses with limited resources and a narrow profit margin."[52] SBUA notes that individually, each data source has its own limitations, such as insufficient to excessive granularity. However, taken together, SBUA opines that each data set

---

[48] *Id.*, at 7.

[49] *Id.*, at 6-7.

[50] *Id.*, at 8-9.

[51] RCRC, Reply Comments on Staff Report, filed June 2, 2023, at 3. CforAT and TURN, Opening Comments on Staff Report, filed May 18, 2023, at 16-17.

[52] SBUA, Opening Comments on Staff Report, filed May 18, 2023, at 4.

provides valuable information on communication service outages. SBUA asserts Cal OES' community isolation outage notifications may provide the most comprehensive and focused view, as they require reporting of outages that limit the ability to make 911 calls or receive emergency notifications.[53]

Frontier asserts that the data trends in the Staff Report do not support applying GO 133-D service quality rules to VoIP service:

> "The Staff Report notes that "[o]f the 12,008 wireline reports, 577 reports were reported under the labels 'VoIP – E911' and 'VoIP,' which collectively accounted for [only] about five percent of the total reports." The significant increase in the number of VoIP and wireless lines between 2018 and 2021 shows that the competitive intermodal voice marketplace should be relied upon to ensure service quality. While the NORS data show an increase in reportable outages during this time period, the summary information provided does not always reveal the precise cause of this increase. In addition, the other data sources analyzed in the Staff Report do not show this same trend. For instance, the Staff Report notes that "Frontier CA began to deliver improved results, which included meeting the OOS standard by restoring 91% of the outage repair tickets within 24 hours in 2021." Similarly, the Staff Report shows that the URF CLECs collectively showed improved results in meeting the OOS standard between 2020 and 2021. In addition, the CAB data show a slight decline in outage-related complaints from 2020 through 2021."[54]

Frontier also contends that both the CAB complaint data and NORS outage data fail to account for causes outside a provider's control, such as cable damage caused by theft, vehicle accidents, vandalism, floods or fires.[55]

---

[53] *Id.*, at 5.

[54] Frontier, Opening Comments on Staff Report, filed May 18, 2023, at 3.

[55] Frontier, Reply Comments on Staff Report, filed June 2, 2023, at 2.

Consolidated Communications asserts that the GO 133-D outage reporting, NORS and Cal OES data sets contain reliable data for analyzing outage trends, as long as the differences in the data sets are acknowledged. However, the Commission "should be very guarded about drawing broad conclusions based on outage data from these sources." In particular, Consolidated Communications cites to the recent increase in wildfires as a likely reason for increases in outages.[56] Consolidated Communications does not consider the CAB data to be reliable for the purpose of analyzing outage trends.[57] Frontier agrees with that assessment.[58]

AT&T and Frontier note that other parties have no way to review the nonpublic information contained in the NORS and CAB data.[59] AT&T also claims that the CAB data demonstrates more than 99.99 percent of California customers have not complained about service quality on their POTS, VoIP, or wireless services[60] and the CAB data helps confirm that the outages reported in NORS and to Cal OES are not perceived by Californians as a deficiency in service quality.[61]

AT&T, Verizon, and CTIA assert the NORS reports encompass many reportable events for which the cause lies outside the control of the provider and might not even be related to the carrier's network, and do not necessarily reflect

---

[56] Consolidated Communications, Opening Comments on Staff Report, filed May 18, 2023, at 1-2.

[57] *Id.*, at 2.

[58] Frontier, Reply Comments on Staff Report, filed May 18, 2023, at 2.

[59] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 13 Frontier, Reply Comments on Staff Report, filed May 18, 2023, at 2.

[60] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 13.

[61] *Id.*

a complete loss of communication ability for the indicated time periods.[62] Additionally, AT&T and Verizon both argue that the NORS reporting requirements were not designed to measure the service quality of a carrier; instead the carriers claim the FCC established the NORS outage reporting rules to provide situational awareness regrading service disruptions.[63] In a similar manner, AT&T claims that Cal OES outages are intended to provide "situational awareness" to make "actionable data available about communities experiencing outages, which can be used by state and local agencies to assess whether communities are in potential risk of being unable to access 9-1-1 services or receive emergency notification…" and that "Cal OES collects no data that could permit any conclusions about the causes of outages reported, a point Staff acknowledges by stating Cal OES outages reporting "does not address the root cause of the outage like the NORS Report."[64] AT&T and Frontier both argue the Staff Report does not consider the state of competition in California voice services and never analyzes whether any service quality regulation is appropriate, such as conducting a cost-benefit analysis.[65]

Verizon contends the various data sets used in the Staff Report do not warrant imposing service quality standards on wireless voice service, asserting that the wireless industry is competitive and the Staff Report indicates that wireless lines comprise approximately 78 percent of all voice lines in California

[62] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 14, 16. Verizon, Opening Comments on Staff Report, filed May 18, 2023, at 7. CTIA, Reply Comments on Staff Report, at 3.

[63] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 15. Verizon, Opening Comments on Staff Report, filed May 18, 2023, at 7-9.

[64] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 18.

[65] Frontier, Reply Comments on Staff Report, filed June 2, 2023, at 1.

in 2021, but only about 22 percent of OES outages in 2021 and 2022.[66] AT&T and Verizon state that in late 2022, Cal OES lowered the threshold for reporting outages, explaining that Cal OES' rules initially required a "community isolation outage" to be reported when 50 percent of a wireless provider's coverage within a zip code was disrupted for 30 minutes, but the rule was modified to require reporting when 25 percent of coverage within a zip code is affected.[67] Verizon argues this means the increase in wireless "community isolation outage" reports to Cal OES can be attributed to the rule's modified reporting trigger and not to a specific, growing problem with outages.[68] Verizon adds that at least for itself, it is likely that some portion of the Cal OES reports were over-reported because, unlike FCC NORS reports, Cal OES does not allow for withdrawal of the community isolation reports, meaning at least some Verizon reports overstate both the outage number and duration.[69] However, Verizon also adds that Cal OES reports indicate whether coverage is affected, while NORS reports do not[70]

Verizon further opines that the Staff Report's reliance on aggregated wireless outage reporting data lacks the necessary detail or analysis of the root causes of the outages. Moreover, Verizon states that any relationship between NORS reporting outage duration and consumer impact is more attenuated for wireless services, even for lengthier outage events:

> For a reportable wireless outage affecting only a few sites where there is continued coverage from overlapping sites, it

---

[66] Verizon, Opening Comments on Staff Report, filed May 18, 2023, at 2.

[67] AT&T, Opening Comments on Staff Proposal, filed September 17, 2024, at 9. Verizon, Opening Comments on Staff Report, filed May 18, 2023, at 2.

[68] Verizon, Opening Comments on Staff Proposal, filed September 4, 2024, at 8.

[69] *Id.*, at 8-10.

[70] *Id.*, at 10.

> would be perfectly reasonable for a wireless provider to prioritize its technicians to support near-term service restoration or maintenance efforts to resolve a service-affecting event elsewhere, even if the smaller non-service-affecting event is nominally an "outage" for NORS purposes. Also, unlike a wireline outage, service during a long duration customer-affecting outage will often be restored via temporary wireless assets. Under the FCC's NORS reporting requirements, however, the permanent sites are still treated as out-of-service during that entire period, even though service is available.[71]

Verizon raises similar concerns about using Cal OES data:

> When faced with mass catastrophes such as wildfires or severe snowstorms which can and do strand entire communities, oftentimes it is impossible for wireless providers to restore service within twenty-four hours simply because the conditions prevent access to the impacted areas, or because third party providers face their own access and repair challenges. Wireless providers already work closely with CalOES in disaster situations to restore service in the fastest and safest ways possible. It defies logic to suggest that some sort of service quality metric or threat of penalty would enable wireless providers to access a disaster area. Wireless providers also have mandated resiliency plans in place pursuant to D.20-07-011 (Wireless Resiliency Order) which specifically encompass plans for maintaining 72 hours of service in High Fire Threat Districts. In this light, subjecting wireless providers to GO 133-D type metrics would be both counterproductive and ineffective.[72]

CTIA argues that the choice in the Staff Report to group all NORS outages under 24 hours in duration into a single category, means "the Staff Report obfuscates the number of short-duration outages, including outages as short as

---

[71] Verizon, Opening Comments on Staff Report, filed May 18, 2023, at 8-9.

[72] *Id.*, at 10-11.

30 minutes."[73] CTIA also claims that one of its members "shared anecdotally that its wireless outages overwhelmingly last substantially less than 24 hours in duration."[74] Regarding the CAB data set, CTIA argues the data lacks information about the type of service that was the subject of the complaint, the type of outage, or any information about the complaint itself, thus it provides no insight into whether an outage had anything to do with network operators' behavior, and even if so, whether it was an outage that was in pursuit of a desirable result (such as system upgrades).[75]

The California Broadband & Video Association contends that none of the four data sets support the extension or expansion of GO 133-D to interconnected VoIP providers, and that the Commission should collect two years of GO 133- D-related data to determine whether there are any issues worth addressing.[76] The California Broadband & Video Association asserts that VoIP outages represent a small percentage of the overall NORS-reported wireline outages, and outages coded as "VoIP – E911" and "VoIP" constitute only around five percent of wireline NORS reports.[77] Regarding the Cal OES data, the California Broadband & Video Association notes that VoIP and wireless service comprise a majority of network outages because VoIP and wireless make up almost 94 percent of all voice lines in California, and is not necessarily an indictment of VoIP service.[78]

---

[73] CTIA, Opening Comments on Staff Report, filed May 18, 2023, at 6.

[74] *Id.*

[75] *Id.*, at 8.

[76] California Broadband & Video Association, Opening Comments on Staff Report, filed May 18, 2023, at 2.

[77] *Id.*, at 6.

[78] *Id.*, at 7.

Moreover, the California Broadband & Video Association states that Cal OES outage reporting standards are different depending on the carrier type (e.g., the threshold for reporting wireless outages is dependent on the geographic area impacted, while the threshold for reporting wireline and VoIP outages is dependent on the number of impacted end users at a given location), which makes it impossible to use Cal OES data to compare in a meaningful manner this aspect of outages between carrier types. Finally, the California Broadband & Video Association contends that, as with the NORS data, Cal OES data shows that there is a downward trend in VoIP outages for the limited time this reporting requirement has been in place,[79] as interconnected VoIP service outages decreased between 2021 and 2022, as evidenced in other datasets. However, the California Broadband & Video Association agrees that the data indicates that any material service quality concerns are with regard to POTS service quality, not other services,[80] noting that the GO 133-D OOS data in the Staff Report demonstrates strong performance by URF CLECs, including several cable VoIP providers that currently report under GO 133-D for various reasons,[81] and the GO 133-D data in the Staff Report shows that issues of alleged

[79] *Id*.

[80] California Broadband & Video Association, Opening Comments on Staff Report, filed May 18, 2023, at 2.

[81] California Broadband & Video Association, Opening Comments on Staff Report, filed May 18, 2023, at 4. "For example, URF CLEC performance overall is strong and increased in 2021 to reach a high of 97.5% of lines without dial tone restored in 24 hours or less for Adjusted OOS. Additionally, the Staff Report observes that "[f]rom 2018 to 2021, the URF CLECs' Adjusted and Unadjusted OOS were at least 28 percentage points better than the URF ILECs. The difference between the two carrier types is significant, especially when considering that both types account for a similar number of working lines."

underperformance are isolated to a limited set of providers, none of which are California Broadband & Video Association members.[82]

The Small LECs[83] contend that "the findings and concerns expressed in the Staff Report are not reflective of the Small LECs and do not support industrywide revisions or expansions to GO 133-D. The Small LECs argue that the Staff Report recognizes that the Small LECs have a well-documented and longstanding record of delivering high-quality service in some of the most rural parts of California. The Small LECs urge the Commission to consider the Small LECs' circumstances and service quality records as it evaluates potential revisions to GO 133-D.[84] The Small LECs also assert the Cal OES reports are "inconclusive and do not provide reasonable grounds for revising or expanding the G.O. 133-D service quality regulations."[85]

4.6. Discussion

The record demonstrates an increase in the number of telecommunications services outages and longer service restoration periods for POTS and wireless voice services. Additionally, the record indicates an extremely high number of outages involving VoIP service, even with the decline in VoIP community isolation events.

Certain industry parties, including AT&T and CTIA, claim that none of the data or information identifies a problem or supports the need for revised or additional service quality rules, or they continue to insist that the Commission should continue to allow market forces to discipline service quality. It is worth

---

[82] *Id.*, at 4.

[83] *Supra.*, at footnote 6.

[84] The Small LECs, Opening Comments on Staff Report, filed May 18, 2023, at 1.

[85] *Id.*, at 3.

noting that some of the very same carriers and trade associations previously made similar arguments that the Commission should rely on market forces in 2012, when the Commission last considered an update to GO 133-C. For example, AT&T previously claimed the following:

> For their voice service needs, consumers can now choose among ILECs, CLECs, wireless carriers, cable companies or their affiliates (some of which provide voice service via Voice over Internet Protocol or "VoIP"), and other VoIP providers. This intensely competitive market supports eliminating the three service quality measures in General Order 133-C ("GO 133-C") applicable to wireline retail service provided by URF carriers.
>
> As Dr. Debra Aron explains in her attached declaration, competition in the communications markets is robust and better suited than regulation to encourage providers to devote their resources to those service attributes most valued by customers. Based on this evidence, the GO 133-C measures applicable to URF carriers should be eliminated.[86]

CTIA previously opined:

> In such a highly competitive market there is no need for the imposition of regulated standards. To the extent a customer is not satisfied with the service of a particular carrier, they are able to walk away and choose another carrier. Given this dynamic, wireless carriers have every incentive to try and retain their customers. Carriers do this by aggressively competing on every aspect of wireless service, including price, network quality and customer service. Thus, in essence, the competitive market has served as a replacement for

[86] *Opening Comments of AT&T California (U 1001 C) and Certain of its Affiliates* (Rulemaking 11-12-001), filed January 31, 2012, at 1-2.

> regulation, yielding benefits far in excess of those which could be achieved through a regulatory construct…[87]

Verizon[88] wrote that "[c]ompetition is the best driver of service quality for consumers…"[89] later adding "Consequently any attempt to 'regulate' quality only winds up harming consumers by substituting the Commission's inherently limited view of what constitutes 'good service quality' for those of consumers."[90]

Examining the state of competition is unnecessary, as it is clear, based on the record, that whatever market forces exist have not disciplined service quality for VoIP and wireless voice service. Indeed, there are alarming service quality trends. Service restoration has declined for POTS and wireless voice services, as the number of outages have increased over time, as has outage duration, to such a degree that consumers now experience outages of well over 24, 48, 72 and 96 hours. In the case of VoIP service, the number of outages are excessively high. A study into the state of competition in the California communications market will not alter these facts.

We reject AT&T's claims that Californians do not view service outages as a problem. As noted by CforAT and TURN, this argument is based on the flawed assumption that the only customers that have encountered a service quality problem are the customers that appeared at the public participation hearings or submitted comments to the Docket Card, and customers not doing so are

---

[87] *Opening Comments of CTIA-The Wireless Association* (Rulemaking 11-12-001), filed January 31, 2012, at 5.

[88] Verizon at that time was Verizon California Inc. (U-1002-C) and Verizon Wireless.

[89] *Reply Comments of Verizon* (Rulemaking 11-12-001), filed March 1, 2012, at 1.

[90] *Id.*, at 2.

satisfied with their service.[91] AT&T provides no evidence to support its conjecture.

The Commission also dismisses CTIA's contentions that subdividing the group of NORS outages of 24 hours or less would change any conclusion regarding outages. Wireless NORS outages have increased over time, as has the number of outages over 24 hours, 48 hours and 96 hours. Adding a category for outages lasting 30 minutes, or a category of less than eight hours, or any other number will not alter these facts.

The California Broadband & Video Association originally opined that the Commission lacked sufficient data on VoIP outages. However, we believe the data collected by Cal OES over the three-year span adequately confirm the necessity to extend outage-related service standards to VoIP and wireless services.

Based on the record, the Commission finds that this increase in outages has occurred across the POTS and wireless voice industries and that VoIP outages are alarmingly high, even though they are decreasing. The Commission also finds that the record contradicts the arguments presented by some industry parties and supports the adoption of the rules discussed below, including the expansion of GO 133 to interconnected VoIP and wireless voice services. However, this does not mean that other arguments made by industry parties are unpersuasive, as it is clear that at least some of the outages are the result of circumstances beyond a carrier's control, and some items initially proposed could benefit from additional data before determining the appropriate course of action.

[91] CforAT and TURN, Reply Comments on Staff Report, filed June 2, 2023, at 12.

Most importantly, the hard data on outages, coupled with the Commission's previous finding that "AT&T… has flatly refused to invest sufficiently to meet the Commission's service quality standards…"[92] and Frontier's statements that its service quality improvements are the result of investment required as part of its Commission-approved acquisition of Verizon California, as well as its subsequent restructuring,[93] leads the Commission to find that the current penalty mechanism in GO 133-D has not led to sufficient service quality improvements. Additionally, the Commission finds that, regarding VoIP and wireless service, market forces, as they currently exist, have not disciplined the service quality of VoIP and wireless service.

5. Public Input and Corroboration

The Commission received extensive public input on the issue of outages, as well as other topics within the scope of this proceeding. Additionally, the Commission held a workshop on September 7, 2023, to hear from parties and representatives from Tribal and local, rural governments.

5.1. Public Participation Hearings

The December 6, 2022 remote PPH included 482 live-streaming viewers on the Commission's AdminMonitor site, 316 callers listening to the PPH, with 120 speakers offering public comment. The December 8, 2022 remote PPH included 418 live-streaming viewers on the Commission's AdminMonitor site, 479 calling in to listen to the PPH and 166 speakers offering public comment. The April 18, 2023 remote afternoon PPH included 250 live-streaming viewers on the Commission's AdminMonitor site, 260 calling in to listen to the PPH and 60

[92] Resolution T-17789, at 5.

[93] Frontier, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 2-5.

speakers offering public comment. The April 18, 2023 remote evening PPH included 13 live-streaming viewers on the Commission's AdminMonitor site, 141 calling in to listen to the PPH and 39 speakers offering public comment. The May 3, 2023 remote afternoon PPH included 109 live-streaming viewers on the Commission's AdminMonitor site, 109 calling in to listen to the PPH and 32 speakers offering public comment. The May 3, 2023 remote evening PPH included 84 live-streaming viewers on the Commission's AdminMonitor site, 33 calling in to listen to the PPH and 23 speakers offering public comment.

The most common issues raised by commentors at the PPHs were: complaints about poor service quality (e.g., extensive outages, dropped calls, poor signal strength, etc.); customer service (slow response time, not resolving issues, etc.); the high cost of voice services and concern that AT&T may discontinue landline (presumably POTS) service.

Examples of the public complaints about service quality include the ones listed below.

> I currently work for AT&T, and one of the things that I believe that should happen is regulation, and I believe the company, AT&T, should be regulated, because I do see -- as an employee, I do see that the company is phasing out POTS, and the whole reason why is because it's expensive. And they're -- and the situation is that they're using -- they're using the same copper line to provide DSL to certain [h]ome -- to certain people, and the wires are not fixed. They're basically corroded or they're just shorted out. And that's why the company has so many issues with Internet and POTS, because they're not fixing them. They're just pretty much putting Band-Aids on the copper wiring...[94]

[94] Transcript of December 6, 2022 PPH at 96:6-21.

> Not only am I a consumer from AT&T, I'm also a former technician with the company for 22 years… AT&T needs to hire more technicians. We are down from 60,000 employees to less than 15,000. The work volumes have not dropped off… the company refuses to invest in maintaining the copper plants. It's an expense to them. It's not an investment, as far as they're concerned, and they're never going to do it unless they are forced to do it. This Commission has the ability to force AT&T to maintain, properly maintain, the lines. That requires manpower.[95]
>
> I am an AT&T landline owner, and the issue is that when it rains very heavily, like many people that have called in and said, the landline goes out completely.[96]
>
> I've been a customer of AT&T for 30 years… I've had no service, no dial tone at my place of business for years -- several years. And I've called AT&T multiple times to ask them to come out and repair the lines. They never did. Nobody ever showed up. Then I continued to get bills from AT&T even after I canceled my service with them because I was unsatisfied…[97]
>
> I have an AT&T landline because my home is in an area with zero cell phone coverage and no cable. So I have to drive five miles if I want to get a cell signal. I have three big problems with AT&T's landline service: Whenever there is a power outage, the landline service fails immediately; so it's not very good in disasters. AT&T is not maintaining the backup power. Whenever it rains, like so many people before me, I get a lot of static on my phone requiring repairs. And, finally, about half the time when I try to file the trouble ticket with AT&T's website, the website says it is unable to take my report for no

[95] Transcript of December 8, 2022 PPH at 271:4-23.

[96] Transcript of December 6, 2022 PPH at 97:6-9.

[97] Transcript of December 6, 2022 PPH at 108: 4-16.

good reason. So they really don't want to hear my trouble ticket.[98]

I have experienced unreliable and unsafe traditional home phone service from AT&T. Like many other callers, this is particularly concerning because we live in a rural canyon where we cannot get cellular service. That means that the only way to call 911 is by landline. AT&T has a faulty cable providing service to our neighborhood. When it stops functioning, our service is affected for hours. We are without phone service for weeks or months.

This cable needs to be replaced and AT&T has stated that they won't replace it…

The most recent outage extended from April 2022 until July 2022.[99]

I live in Hollywood, California. Every time it rains, we lose service, both the land line and the Internet… numerous buildings lose service every time it rains.[100]

I live in Pasadena. I'm calling regarding my AT&T landline and Internet service. I documented numerous times, without resolution, the number of down times that the system went down, and talked to many technical support people, had technicians to my home. Through all of this, there was never any change in the billing. It always stayed the same. And when I tried to ask for customer service, I was told AT&T did not have customer service, but I could send a letter to AT&T in Dallas, Texas, which I did, along with all of the documentation for the down time. I got the letter back from AT&T indicating that I should contact the technical support number that I had been calling. So I -- my concern is, at no

[98] Transcript of December 6, 2022 PPH at 47:26-48:15.

[99] Transcript of December 6, 2022 PPH at 75:23-76:16.

[100] Transcript of April 18, 2023 PPH at 400:9-14.

time, do we ever get compensated for the amount of time that our system is down, as opposed to the amount of time that they consider…[101]

I live in Squaw Valley, just outside of Kings Canyon National Park. I am 65 years old. I am disabled and a widow… (Audio failure) my phone has barely worked over the 11 years that I have been here. Over the last three months, it's almost been non-existent. I have had poor service off and on. My phone worked five days in February. It worked April 17th and the morning of the 18th, so I couldn't even call you the last hearing that was on the 18th. Since the 1st of May, just the last few days, it's been -- I can make some calls out, but I -- they'll get dropped in the middle of a conversation, but nobody can call in. I need my phone to work. I am not able to get warning alerts. We have had a lot of fires up here. We've got flooding. We had heavy snow, as I'm sure you're aware of. I just want to remain in my home, and I want to live independently. When I call Frontier, they tell me that they've been here and my phone is working. I have to drive 3.2 miles for cell service, so my landline is it. And when I called last week and complained, they told me I need to move to the city.[102]

…I live in a rural community, and our (cell phone service) … (is)… with AT&T… And hearing all the issues about AT&T, seems like 90 percent of the calls are in regards to AT&T, and we have the same issues. We have a tower out here, and I think it's run off of a generator, and I've heard through our small community that they have someone come up to put gas into the generators, and when they don't come up, last year, I think from the month of December 23rd all the way to January 7th, we had no cell phone service. This happens at least once a month, anywhere from 24 to 72 hours…[103]

---

[101] Transcript of April 18, 2023 PPH at 409:7-25.

[102] Transcript of May 3, 2023 PPH at 466:25-467:25.

[103] Transcript of December 6, 2022 PPH at 94:12-95:11.

> Last winter T-Mobile had an outage due to power outage while all the other carriers were up. T-Mobile's generators were nonfunctional. They were out for more than eight hours.[104]
>
> I live in… Oceanside, California; and when I first started with Verizon, I had five bars and great service. Each year the signal strength goes down. Now it's at one to no bars and no service where I am at. I haven't moved. When I make a call, a lot of times, it's breaking up, and people tell me they can only hear the third or fourth word I am saying. Sometimes when I go to make a call, I get a message saying, "voice communications not available in your location." Again, I haven't moved. I call tech support and they tell you, "oh, yeah, you're in a poor reception area, and there's nothing we can do about that." I have updated my phone, and I have an up-to-date phone. It takes all the bands or 5G Ultra…. Basically, it sounds like the cell towers are overloaded, and they say, it'll take years and years before they can update that.[105]
>
> I am a teacher in Cascade, California…. my service provider is AT&T. I've always had excellent service. But beginning this (inaudible) -- I no longer have service, when I'm at school. And that's a great concern to me… There's been active shooters, and without service. And if anything were to happen at our school, I would not be able to call 9-1-1 and assist the students, or to seek help, without any service there at school. So all day then, out there at school, I'm without any service with AT&T. I tried calling customer service. They told me that the cell tower would be fixed in a week. And then it would be fixed in two weeks. And then, they don't know when it would be fixed. And now they have no resolution.[106]

---

[104] Transcript of December 6, 2022 PPH at 35: 10-15.

[105] Transcript of April 18, 2023 PPH at 353:2-22.

[106] Transcript of May 3, 2023 PPH at 507:11-508:4.

> I'm the acting chief of the Trinity Center Volunteer Fire Department in Trinity Center, California. I am calling about public safety concerns regarding about the failure of both the landline and cell service in our area this winter. The Verizon tower does not have a backup power system, so when the power goes out, which has been frequently this winter, residents with cell phones are unable to call 9-1-1. We have a text group for the volunteer firefighters to coordinate responses for energy and they did not work. We also had an issue with TDS landline. We were down for a month due to ice on the tower and lack of a backup system. Both of these outages affected public safety in our area. Residents were actually driving to firefighter's houses to access a radio to dispatch help.[107]

The Commission also heard from a small number of participants either stating they have good telephone service, or arguing the Commission should instead focus on approving rules for the issuance of broadband grant funds, or refrain from adopting service quality rules altogether on the grounds that it might harm innovation in the communications market.[108] Examples of these comments include:

> I live in Walnut Creek, California… Juggling being present for my family and also furthering my education at a university that is over an hour away from my home takes constant communication. Reliable wireless service has played and will continue to play a vital role for many important services like remote and distance learning and being there for my family. Personally, I have seen my services improve through innovation, not top-down regulation…[109]

---

[107] Transcript of May 3, 2023 PPH at 468:15-467:25.

[108] Four participants at the December 6, 2022 PPH, eight participants at the December 8, 2022 PPH, seven at the April 18, 2023 afternoon PPH, four at the April 18, 2023 evening PPH, five at the May 3, 2023 afternoon PPH and seven at the May 3, 2023 evening PPH.

[109] Transcript of May 3, 2023 PPH at 443:32-444:12.

I live in Oakland, California. I work in a healthcare system that provides additional health care plans such as diet and exercise plans for our patients. Wireless technology allows my team and me to communicate effectively and quickly with our patients. These individualized plans -- diet and exercise plans are sent out through the patient's phone app. Over the past several years, the need for telemedicine has skyrocketed. And… even through COVID, innovation, not regulation, made this emerged technology a reality.[110]

I am calling in on behalf of the California Business Roundtable. We are a non-partisan organization that is comprised of senior executives across the state, and I am calling to speak on the positive impacts of mobile telecommunications. So, small businesses are relying on emerging platforms, which are enabled by apps and connecting with customers through wireless technology. This is creating new job opportunities and improvements in many businesses based in California. These wireless networks have evolved and only improved over the past decade because of permissionless innovation and not from top-down utility-style regulations. It's necessary to enable innovators and entrepreneurs to offer their best and not hold them back from competing in the marketplace.[111]

I understand that the Commission has -- still has the $2 billion in funding for the Last Mile Broadband but the grant application process has not yet started. It has been a year since the legislation was passed and more than two years since the Commission has last accepted grant applications for state broadband projects. We understand there is a process, but we need the Commission to move faster.

---

[110] Transcript of May 3, 2022 PPH at 444:20--445:6.

[111] Transcript of April 18, 2023 PPH at 323:17-324:7.

> To be clear, I have great phone service quality as does most people in San Francisco that can afford it. Focusing on closing the digital divide for underserved and home insecure communities and families should be your primary focus.
>
> Please increase your focus on closing the digital divide in connecting all Californians to 21st century broadband technology and continue to focus on distributing this money so we can close the digital divide in our communities…[112]

5.2. Public Comments on the Docket Card

The Commission has received over 3,500 public comments on the Docket Card of this proceeding. The most common issues raised by commentors include: complaints abouts poor service quality (e.g., extensive outages, dropped calls, poor signal strength, etc.); complaints regarding customer service (slow response time, not resolving issues, etc.); and the high cost of voice services. Examples of the comments that are directly relevant to this proceeding include:

> Verizon service in Santa Barbara and Goleta is a disgrace. Whether or not the FCC agrees, cell service IS a public utility, the same as old-fashioned land lines, and should be regulated as such… It is extremely frustrating when I walk to a different room in my home and the call drops! Or when I receive a call and the caller can't hear me answer. I am a senior and no longer have a land line. Although I have been with Verizon for more than 20 years, I am considering other options because it is so outrageously expensive. I worked in the communications industry for many years and I'm certain that Verizon is aware that they need more cell sites in this area - corporate greed is the only thing preventing them from doing this. Public safety must be more of a priority than corporate profit. Please hold these companies accountable and force them to provide better service.[113]

---

[112] Transcript of December 8, 2022 PPH at 161:27-162:20.

[113] Public Comment of Irene Cook, Galeta, submitted on November 10, 2023.

I am both a user of these telecommunications services and have been employed in the telecommunications industry for over 30 years. 19 of those 30 years were spent working for AT&T. In those 19 years, I watched AT&T's service decline considerably in both landline telephone service and Broadband Internet service. AT&T has allowed their voice grade copper network to degrade beyond repair causing lengthy delays in service restoral as well as repeat dispatches to restore service. I have worked for 2 different CLECs in California since leaving AT&T. AT&T treats service restoral of CLEC leased copper pairs even worse causing CLECs loss of business on a routine basis because service is not being restored in a timely manner. These same copper loops are being used to provide broadband service and the poor condition of the copper is even worse for broadband service. This also compounds other services such as VOIP that rely on a reliable internet connection of which AT&T's Uverse on copper cannot provide. With deployment of fiber optic cable in cities, AT&T has left behind rural customers when it comes to broadband internet services, only to rely on their subpar copper network or relatively low speed wireless services. Until AT&T begins to correct the long-standing conditions of their copper outside plant, I would encourage additional regulation by the CPUC.

In regards to mobile/wireless phone service, there remains signal coverage problems areas in various parts of the state. This is especially true in the foothill and mountain communities surrounding California but does still persist in some areas of the central valley as well. It is these lower income areas, less populated and farming areas of the state, where the problems are worse for this issue.

In addition to the signal issues with wireless service, Verizon Wireless continues to let their network pass spam phone calls to the consumer on a regular basis. In fact, Verizon now charges me for an app that I must use to block spam calls. The

problem I see with Verizon's app is the fact that it really does not work. I have to leave the app open on my phone for it to work causing battery drain on the device. The app still does not work; I routinely get spam calls and now I get billed extra for the app. The FCC put rules in place for all carriers to remedy this spam calling issue and I do not believe Verizon Wireless is in compliance with these new rules. I also highly encourage the CPUC to increase regulation of the wireless carriers as well.[114]

My AT&T landline goes dead about twice a year, most recently in summer 2022. I called on a Friday to report the outage and was told it would be fixed by the following Thursday.

My Verizon cell phone signal is weak, making that phone unreliable. The AT&T landline is my lifeline. It should work 100% of the time, but it doesn't. According to what I've read, AT&T is deliberately letting its landline infrastructure to deteriorate in favor of more profitable avenues.
This is a serious public safety issue that the CPUC should address and remedy.[115]

I've been a Sprint customer for almost 20 years. We have 6 phones on our plan. Before the merger we had great service. Ever since the merger we have zero service at my house and am forced to use Wi-Fi calling in order to make a phone call or go outside for extremely spotty service. Additionally, when the power goes out at my home the Wi-Fi towers go down so we lose service completely so I have …(no)way to call anyone if I had an emergency and no one can reach me either. We also have zero service in hundreds of locations that I always had service in before the merger. I have called customer service many times and they tell me that their system shows I have excellent coverage where I am. The system is wrong! I even

[114] Public Comment of CJ Fowler, Escalon, submitted on November 10, 2023.

[115] Public Comment of Doug Fiske, Encinitas, submitted on November 12, 2023.

changed to a T-Mobile sim card and that did not help. At the beginning of the merger I called to report a problem with my service and they said that with T-Mobile we would have access to all of the Sprint towers as well as the T-Mobile towers. Now I'm told the Sprint towers are no longer working. I continue to pay my bill on time even though I have sub-par service and there is nothing I can do because of my contract. This is unacceptable for T-Mobile to be allowed to treat their customers this way![116]

Thank you for your consideration. Reading through the documents, I strongly support the CPUC in establishing minimum quality standards for reliable wireless service. Our world is adapting and changing quickly, and I am finding that myself, and many friends and family no longer rely on traditional landline phones. We've all moved almost exclusively to cellular phones. However, it also important to recognize that we are in an ever changing world. Notably, California continues to run into power issues and we expect at least one, but most likely more, power outages every year. As such, our ability to make calls and communicate is paramount in times of a power outage. While our reception at our home is currently spotty, when we have suffered power outages it has gone to completely useless.

Cellular phones offer us the potential for maintaining our ability to communicate in emergency situations. I hope this commission will help ensure that we get not only day-to-day coverage, but that they take into account coverage in non-ideal situations, notably during power outages, to reflect the needs that our communication infrastructure has during these times. [117]

I am very concerned about being forced/priced out of an AT&T landline that is reliable when power is out in a

[116] Public Comment of Della Mitchell, Grass Valley, submitted on November 4, 2023.

[117] Public Comment of Anthony Velazquez, Pittsburg, submitted on November 14, 2023.

community that is subject to power outages. I am a long time AT&T customer with a landline. AT&T landline costs have skyrocketed. So, I decided to test AT&T cell phone service. I discovered that AT&T cell phone service in Arnold, California is spotty at best. In Arnold, I can't get calls on the cell phone on a normal day.

In an emergency, like a wildfire, I wouldn't be able to use my cell phone to call for help.

With safety on the line, it seems like my only option is to keep a now very expensive landline. I don't think this is the right solution - please CPUC, consider how best to ensure rural communities either (a) receive good cell phone service (through a cooperative arrangement between the companies that provide cell service in the area?) or (b) continue to receive support from landline providers and maintain low cost landlines (instead of jacking up the price to force us to drop them). Of course, other good solutions welcome![118]

We live in a rural area with limited and spotty cell phone coverage. During power outages (planned and otherwise) most of our area loses cell coverage because the nodes are not using backup power supplies. Most people have given up or never had the opportunity to have POTS telephone service. We have two landlines at our residence which we rely on for emergency information. The problem is that they run through nodes that require power, so in emergencies we are literally left in the dark with[out] access to critical emergency notifications. The solution, of course is fiber optic or copper lines that run directly to our homes that don't require power to have telephone access. AT&T is systematically destroying that capability because they don't want to maintain what used to be a simple, powerless system. Time to go back to what we know works for areas that are at critical risk from earthquake

[118] Public Comment of Helen S, Arnold, submitted on November 14, 2023.

and fires. The CPUC needs to drive the boat here and require AT&T to provide reliable phone service.[119]

My primary concern is that we have an AT&T landline phone to depend on for emergency situations and it is unreliable. During a power outage, the cell service, Wi-Fi and AT&T landline service all go down. Being left with no way to communicate is dangerous and life threatening, particularly during powerful storms and wildfires. Please restore the ability of landlines to operate without power.[120]

I live in a rural area. We have very few options for cell providers here. I find it strange and somewhat predatory that I have to pay the same price for service, when it only works about half the time. You should have a rural plan that costs less, since cell phones are only half as useful here. I also feel the same as everyone else: overall service is unsatisfactory. We get punished because you don't have enough customers in my area to bother building more cell towers. Why is that my fault, and why should I pay for service I don't get?[121]

We live alongside Highway 24, and there are antennas nearby, but our cell reception is lousy, so we rely on Xfinity for Wi-Fi. The Wi-Fi will go out if there is a PSPS or loss of power, so then we have no notification from the county in case of fire. We still have a landline that we rely on in that case so we need the following:

- AT&T needs to maintain our copper landlines and keep the cost reasonable.
- Cell towers should have plenty of backup power.

We would love to see better cell service in our area, and I am speaking for the neighborhood.

---

[119] Public Comment of David Smernoff, Portola Valley, submitted on November 15, 2023.

[120] Public Comment of Heidi Bezaire, Grass Valley, submitted on November 15, 2023.

[121] Public Comment of Luke Boutiette, Willits, submitted on November 15, 2023.

Xfinity Cable should also have more backup power so that we can receive television news in case of a disaster. Note - when we had a fire here in Lafayette, we had no communication except seeing the preview of text messages.[122]

I am concerned and frustrated regarding the lack of Verizon phone accessibility in Arnold, CA during emergency situations as well as on many summer weekends and holidays. Verizon does not have the bandwidth to provide the basic services to contact emergency services or receive emergency notifications during fire and storm emergencies. During the last two years of winter storms, there have been days when we were unable to call out as well as receive incoming phone calls, cutting us off completely from being able to get in contact with emergency services as well as contacting family to report on our safety.

This is unacceptable. Roads were not passable, and we could not access phone services or Wi-Fi to notify the appropriate county services. It was as though we live in a third world country. We pay nearly $100 a month for two cell phones and Verizon has no responsibility to provide basic service. It is unbelievable that they have kidnapped our safety and aren't held in any way responsible for the access to phone or data that they have sold to customers.

And that does not even address the lack of service when there is no fire or storm in the area, and simply an influx of people on a weekend or holiday. How can they continue to sell a service, not provide it, and still charge customers for service not received? That is highway robbery and fraud.
The CPUC needs to set basic levels of services that needs to be maintained by Verizon rather than allowing Verizon to

[122] Public Comment of Kathleen Marshall, Lafayette, submitted on November 15, 2023.

continue to sell services to phones it cannot possibly support.[123]

We are all in an urban area so bad coverage in our area is surprising. Most of the time the lack of cell service in my home is an annoyance and prevents us from removing our landline which is rarely used. In emergency situations, like power outages, when the landline goes down as well as the Wi-Fi, cell service is almost nonexistent. At best we go out on the street searching for a cell signal, and at the extreme, get in the car and drive around doing the same thing. There must be a better way.[124]

We live in high-risk fire area adjacent to the Santa Monica Mountains. Our residence is under 2 miles to Santa Monica proper and under 1.5 miles to the LAFD Station House in Pacific Palisades. Our ISP is Spectrum. Our entire family is Verizon Wireless customers.

More often than [not], we are unable to complete Wi-Fi enabled calls. And, rarely able to place a cellphone call from our home [or] from any of our iPhones. Believe it or not, we need to drive 1.5 miles from our home to even get a cell signal. These twin conditions as a result of Spectrum and Verizon inadequate service put our home, our family, and our neighbor's in harm's way. Please compel both [of] these providers to upgrade their service to protect our safety.[125]

I have Xfinity VoIP phone, Internet, Cable TV, Wireless Mobile phone, and home security services. I get very poor cell phone service at my home and thus need the VoIP 'landline" service as well. My main complaint is that when we lose electrical power (PG&E goes down) we also lose VoIP telephone, internet and wireless services, security, and of

[123] Public Comment of Shirley Stroble, Arnold, submitted on November 15, 2023.

[124] Public Comment of Kenneth Joseph, Dublin, submitted on November 16, 2023.

[125] Public Comment of Mark Robeson, Pacific Palisades, submitted on November 16, 2023.

course, cable TV. TV is not the problem, it is losing the internet – which we lose our landline telephone service. Living in the mountains, no ability to call emergency services is dangerous for us seniors. While I appreciate Xfinity needs electrical power to operate, I don't understand why they can't provide back-up or generator power to their equipment during power outages! They leave us with no ability to call via either land line VoIP or cell service, or contact someone via internet in case of emergency. Sometimes for a week or more. When will they be responsible to provide back-up power to their communication equipment so we aren't stranded in the mountains with no ability to call an ambulance or the police???[126]

In rural areas (where cell service is not reliable), land line phones can be our only contact option. Yes, most have internet ... when the power goes out (a related topic), most internet goes with it. AT&T has consistently underserved the land line users ... charging an outrageous price for service that is mediocre at best. Old equipment (think Alexander Graham Bell vintage), complete lack of maintenance, significant issues with reporting outages and a lack of customer service ... together it's a mess! We understand that technology has moved on--however, the lines and equipment should be maintained if they're going to charge a premium for it.[127]

I am a resident of Pacific Palisades. The issue I would like to address is the lack of cell phone service in the area. I have to rely on Wi-Fi to make phone calls, send text messages, etc. Wi-Fi is unreliable.

The area is windy and often knocks out the power/Wi-Fi. I don't feel safe. In case of emergency, if the Wi-Fi is down, I cannot dial 911. Regardless of whether or not I live in the neighborhood and have access to Wi-Fi, this is still an issue.

---

[126] Public Comment of Bonnie Scott, Placerville, submitted on November 16, 2023.

[127] Public Comment of Diane Kuffel, LaGrange, submitted on November 17, 2023.

> There has been an instance where hikers in the area needed to report a fire but had to drive miles before reaching service and alerting the fire department. It is unacceptable for this area to not have cell phone coverage. Thank you for addressing our service concerns.[128]

> We have had AT&T for many years. In the distant past, the audio on phone was clear. Now, even after we call them, and they come out, it remains full of static, and when it rains, it generally gets worse. Only the likelihood that it will work slightly better than cellular with power outages has kept us using their increasing expensive "service."[129]

The Commission also received comments from a small number of individuals and trade associations arguing the Commission should refrain from adopting service quality rules on the grounds that it might harm innovation in the communications market. Examples of these comments include:

> On behalf of the Bay Area Council and our more than 330 member companies, I want to express our members' need for dynamic wireless communications networks for their businesses to thrive, from monitoring supply chains to enabling tele-medicine and remote work. Maintaining network excellence is best achieved through market forces enabled by innovation, not by top-down regulation.[130]

> …The California Hispanic Chambers of Commerce encourages the Commission to avoid imposing additional and unnecessary service quality regulations. This potential action will thwart innovation and investment. We encourage the Commission to promote instead a regulatory environment

[128] Public Comment of Destiny Yancey, Los Angeles, submitted on November 18, 2023.

[129] Public Comment of Leonard Moore, Aptos, submitted on November 19, 2023.

[130] Public Comment of Adrian Covert, San Francisco, submitted on May 12, 2023.

> that spurs innovation and increases quality through ongoing competition.[131]
>
> … amending General Order 133 with unnecessary and costly regulations could impede the goal to provide more affordable and accessible wireless in the San Diego region.
>
> Amendments to General Order 133 may impact wireless expansion efforts in communities with limited-to-no connectivity due to the topography and/or lack of contiguous infrastructure (power, roads, and development) needed to support cohesive wireless deployment. Additionally, broadband is now more affordable and accessible in our community than ever. New service quality metrics would disrupt this progress and lead to increased costs to consumers and small businesses.
>
> For these reasons, the Chamber respectfully urges the California Public Utilities Commission to reject these unnecessary and costly regulation changes and, instead, help remove the barriers impeding wireless deployment and support efforts to accelerate wireless deployment in our community and throughout the State.[132]

5.3. Issues Raised at the September 7, 2023 Workshop

The Commission hosted a hybrid workshop on September 7, 2023, at the California Energy Commission's Art Rosenfeld Hearing Room in Sacramento. The workshop's agenda was divided into a morning session for the consumer advocates (Advocacy Panel) and an afternoon session for the communications services carriers (Carrier Panel). The morning session included the consumer advocates' presentations on proposed Quality of Service (QoS) metrics and

[131] Public Comment of Julian Canete, Sacramento, submitted on December 8, 2022.

[132] Public Comment of Jerry Sanders, San Diego, submitted on February 5, 2024.

measurements, presentations on the enforcement mechanisms in GO 133, a round table discussion for Tribal and Local Government representatives, and a question-and-answer session. The afternoon session schedule included the Carrier Panel's presentation on proposed QoS and measurements, presentations on the enforcement mechanisms in GO 133, a round table discussion for Tribal and Local Government representatives, and a question-and answer session. Cal Advocates and the California Broadband & Video Association prepared an extensive summary of this workshop and served it on September 21, 2023.

Some ideas or recommendations made at the workshop led to similar proposals in the Staff Proposal, including those discussed below.

Yurok Telecommunications Corporation (Yurok Telecoms) discussed outages lasting for six months for which tickets were not created, and when outages are reported they are not being addressed by Frontier. Yurok Telecoms explained that long back and forth exchanges with Frontier cause many tribal members to give up on trying to get their phones reconnected, contributes to tribal members not realizing phone service is available to them, and forces elders from the reservation to drive dozens of miles to the tribal office and use the office landline to make an appointment regarding an issue with Frontier's service. Yurok Telecoms stated that there should be stricter service quality metrics, more auditing, and more education for the community. Yurok Telecoms added that a consumer must be very persistent to get due compensation.[133] Yurok Telecoms discussed both the benefits and complexity of the automatic $10-per-day credit reached in the Frontier settlement,[134] noted that the incentive of receiving credits

[133] Joint Workshop Report, at 10-11.

[134] D.21-04-008, *Decision Approving Corporate Restructuring Conditions*, (Application 20-05-010), issued April 20, 2021.

prompted more tribal members to call in to be connected to services but that doing so still required ongoing effort from tribal members, and highlighted the need for ongoing educational programs.[135] These observations led to the automatic customer credit portion of the Staff Proposal.[136]

A representative from Cox advocated for continuing to allow for adjusted out of service results that included events outside a provider's control.[137] The Staff Proposal reflects this approach.

5.4. Positions of Parties

Not all parties addressed public comments. However, those that addressed public comments in their filings disagreed regarding the reliability of those comments. Parties representing consumers assert public statements corroborate other data in the record, while industry parties dismiss the usefulness of public statements.

TURN and CforAT assert the Staff Proposal "properly relies on input from customers of communication services, collected through robust public participation..." and it is "fully appropriate for the Commission to consider public input."[138] CforAT and TURN cite to Rule 7.5(a)(3), which requires that quasi-legislative proceedings have "one public engagement workshop" and Rule 1.18, which allows members of the public to submit written comments on the Docket Card of any proceeding and provides that those comments will be

[135] Joint Workshop Report, at 10.

[136] Cal Advocates also proposed a customer credit. *See*, Cal Advocates, Opening Comments on Staff Report, filed May 18, 2023, at 12-15.

[137] Joint Workshop Report, at 15.

[138] CforAT and TURN, Reply Comments on Staff Proposal, filed September 17, 2024, at 42.

entered into the administrative record of the proceeding and summarized in a decision.

The Small LECs argue the Staff Proposal's "reliance on… [a]… cursory summary of 380 individual public comments at the PPHs is … unreliable."[139] Verizon opines that statements at the PPHs are a poor basis from which to draw conclusions, as they do not represent a statistically significant sample upon which any reliable conclusions or policy prescriptions can be developed."[140] AT&T opines that the outages reported in NORS and to Cal OES are not perceived by Californians as a deficiency in service quality.[141] AT&T also states that comments opposing regulations should be given equal weight to those supporting regulation.[142]

5.5. Discussion

Overall, the experiences of Californians, customers of the various carriers, corroborate the hard data and other information in the record. Outages for POTS and wireless services have increased, as has outage duration. Outages for VoIP service are excessively high.

6. The Network Exam Reports

Decisions 13-02-023 and 15-08-041 ordered an examination of the telecommunications networks' performance and related services, policies, and practices of AT&T California and Verizon California Inc. (now Frontier

[139] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 3.

[140] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 13.

[141] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 13.

[142] AT&T, Opening Comments on Staff Proposal, filed September 17, 2024, at 6-7.

California).[143,144] Significant findings from the Network Exam Phase 1 Report are as follows:

- Between 2010 and 2017, both outages and service restoration time for outages lasting longer than 24 hours increased for both AT&T and Frontier.
- AT&T and Frontier are not always maintaining networks to withstand environmental and weather-related conditions. Networks are not robust, and both ILECs have cut back on preventative maintenance expenditures.
- AT&T and Frontier are investing very little into infrastructure that supports only Time Division Multiplexing (TDM) service.[145] Both ILECs are relying on price increases and customer inertia to maintain the revenue stream related to this service.
- AT&T and Frontier service territory areas with higher broadband investment have maintained a higher level of

---

[143] *See*, Examination of the Local Telecommunications Networks and Related Policies and Practices of AT&T California (AT&T) and Frontier California (Frontier), Study conducted pursuant to the California PUC Service Quality Rulemaking (R.) 11-12-001, D.13-02-023, and D.15-08-041, April 2019 (Phase 1 Report). A public version of the Phase 1 Report is available, as of this writing, at https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/service-quality-and-etc/network-exam-of-att-and-frontier-verizon. Pursuant to the Assigned ALJ's Ruling of November 15, 2022, a confidential version of the report was available to parties that signed non-disclosure agreements.

[144] On December 3, 2015, the Commission adopted D. 15-12-005, which approved Frontier's acquisition of Verizon California, subject to conditions. Verizon has recently applied to acquire Frontier. *See*, A. 24-10-006, In the Matter of the Joint Application of Verizon Communications Inc., Frontier Communications Parent, Inc., Frontier California Inc., Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc., Frontier Communications Online and Long Distance Inc., and Frontier Communications of America, Inc. for Approval of the Transfer of Control of Frontier California Inc. (U 1002 C), Citizens Telecommunications Company of California (U 1024 C), Frontier Communications of the Southwest Inc. (U 1026 C), Frontier Communications Online and Long Distance Inc. (U 7167 C), and Frontier Communications of America, Inc. (U 5429 C), to Verizon Communications Inc. Pursuant to California Public Utilities Code Section 854.

[145] *Supra.*, at footnote 31.

POTS service quality and better performance on all GO 133-D metrics.

- AT&T wire centers[146] serving areas with the lowest household incomes exhibit higher trouble report rates and longer OOS durations compared to wire centers serving higher-income communities.
- Both AT&T and Frontier place more investment and attention into areas with higher rates of competitive offerings.

Significant findings from the Network Exam Phase 2 Report include:

- Service quality deterioration continues for both AT&T and Frontier, with the frequency of service outages and the duration of those outages increasing.
- Payment of dividends in excess of earnings, and annual depreciation accruals that exceeded gross additions have continued into Phase 2; moreover, the infrastructure investments appeared aimed primarily at nonregulated broadband service upgrades instead of improving legacy service plant.
- Both companies have stopped marketing legacy circuit-switched POTS, focusing instead on broadband service as their strategy for maintaining and growing their revenue stream while allowing POTS service to continue to degrade.
- Investments made in 2018-2019 continue to be primarily directed toward broadband services that bundle high-speed Internet access, VoIP, and video service.
- By the end of 2019, AT&T California had become an even smaller part of the overall AT&T corporate organization relative to the two prior years, as AT&T California's share of total AT&T Inc. revenue fell from 7.80 percent in 2010 to 3.66 percent in 2019.

[146] The term wire center frequently is used interchangeably with the term central office.

- The strong correlation between significant adverse weather conditions and the incidence of service outages in greater Los Angeles in Phase 1 is now occurring statewide due to the failure to adopt proper weatherproofing of network infrastructure to withstand varying weather and environmental conditions.
- AT&T and Frontier continue to focus on investments in higher-income communities.
- AT&T has the financial resources to maintain and upgrade its wireline network in California but has been pulling capital out of the state rather than putting new capital into its network here. Frontier lacks the financial capacity to make the necessary investments.
- AT&T VoIP service experiences a slightly higher rate of service outages than AT&T legacy voice services. VoIP is dependent upon locally-provided power, battery backup, and customer premises equipment that is not generally required with POTS.
- It is not possible to link the Commission's CAB complaints with corresponding ILEC trouble reports. However, the number of complaints relating to Frontier service that CAB received in 2018-2019 was substantially greater than the number of complaints CAB received related to AT&T.

The Network Exam Phase 1 Report makes the following recommendations:

- Expand the financial penalties for carriers that fail to meet the minimum service quality standards.
- Where competition is not present, increase fines to have the same financial consequences as poor service quality under competitive market conditions.
- Decrease the GO 133-D thresholds for maximum Customer Trouble Report Rates.
- Unless carriers can offer technically valid explanations as to how and why smaller wire centers experience the poorest service quality, the minimum service quality standards should be applied uniformly for all wire centers.

- GO 133-D fines should vary based upon the extent of a carrier's failure to meet any service quality standard, rising in magnitude as the extent of the shortfall increases.
- The Commission should continue to require carriers to maintain their Part 32 Uniform System of Accounts (USOA)[147] regulatory accounting records and submit annual ARMIS type financial reports.
- The Commission should establish a process to examine alternatives that would be available to maintain adequate service to Frontier customers in the event that the parent company no longer has the financial resources to provide safe and reliable services in California.

The Network Exam Phase 2 Report[148] makes the following recommendations:

- Given the enormous rate at which customers have been discontinuing legacy circuit-switched POTS-type services over the past decade, the Commission should reevaluate the role that regulation is to play with respect to legacy as well as current technology services going forward. If assuring universal availability of high-quality public switched network access is to remain a central focus of regulatory policy, then advanced services, including VoIP and broadband, should be included within the scope of this policy review. There seems little reason to single out legacy services as the sole focus of service quality regulation.

[147] The USOA is a financial accounting system applicable to regulated telephone companies which ensures they properly allocate costs to and among telecommunications services, facilities, and products, and enables regulators to assess cost allocations within a specified accounting period.

[148] A public version of the Phase 2 Report is available at: https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/service-quality-and-etc/network-exam-of-att-and-frontier-verizon.

- With Pub. Util. Code Section 710 no longer in effect,[149] GO 133 should be extended to apply to all wireline voice services, including VoIP services, whether furnished by ILECs or other large service providers.
- The Commission should expand the financial penalties for carriers that fail to meet the minimum GO 133-D service quality standards, both with respect to the types of shortcomings that will be assessed and the financial magnitude of the fines or other penalties that will be imposed. The Commission's consultant asserts: "We have seen no specific evidence that investments made in lieu of fines as permitted in GO 133-D Section 7 (a) would not have been made anyway, and (b) have resulted in specific remedial measures aimed at overcoming the service quality shortcomings. The practical result of these alternative investments is simply to negate the effectiveness of the financial penalty itself, and as such the program should be discontinued."
- Where competition is limited or not present, continued regulatory monitoring and enforcement of minimal service quality standards remains necessary, and financial penalties imposed due to an ILEC's failure to meet service quality standards should be sufficiently high so as to have the same financial consequences as would poor service quality under competitive market conditions.
- The GO 133-D maximum Customer Trouble Report Rates should be revised downward.
- Fines imposed by GO 133-D Section 9 are currently applied for aggregate service quality shortfalls calculated on a companywide basis. Instead, these fines and other financial penalties should be imposed with respect to individual wire center service quality performance and should

[149] Among other items, Pub. Util. Code Section 710(a) prohibited the commission from exercising "regulatory jurisdiction or control over" VoIP enabled services except as required or expressly delegated by federal law or expressly directed to do so by statute. That statute sunset on January 1, 2020.

escalate based upon the extent to which the carrier falls short of meeting the service quality standards for each such wire center.

- Unless carriers can offer technically valid explanations as to how and why smaller wire centers experience the poorest service quality, the minimum service quality standards should be applied uniformly for all wire centers.
- GO 133-D fines should vary based upon the extent of a carrier's failure to meet any service quality standard, rising in magnitude as the extent of the shortfall increases.
- The Commission should retain its requirement that Uniform Regulatory Framework (URF) carriers maintain their Part 32 USOA regulatory accounting records and continue to submit annual ARMIS-type financial reports using the same accounts and account definitions that they have been required by the Commission. If an ILEC wants to substitute Generally Accepted Accounting Principles (GAAP) reporting for Part 32 USOA, it should be required, first, to submit a formal application for the right to make this substitution and, in that application, demonstrate that GAAP-type reporting will still meet the Commission's need for financial data sufficient to permit the type of year-over-year monitoring of investment, retirements, depreciation accruals, write-offs and write-downs, operating results, debt and debt service payments, and other financial data necessary for the Commission to carry out its regulatory mission. If the Commission authorizes the ILEC's use of GAAP, the ILEC should be required to retroactively restate its USOA reports consistent with GAAP for a minimum of five prior years. The financial reporting requirement should be extended to also include wire center level accounting data, similar to those that the Commission's consultant obtained through multiple data requests in the course of both Phase 1 and Phase 2 of this study. The ILECs should be required to submit these reports separately for each physically distinct wire center; the groups of wire centers that Frontier had

administratively consolidated for reporting purposes and any similar grouping, should be disallowed. The carriers should be required to submit these reports to the Communications Division on a semi-annual basis.

- The Commission should establish a process to examine proactively the alternatives that would be available to maintain adequate service to Frontier customers, in the event that the parent company no longer has the financial resources to provide safe and reliable services in California.

The August Ruling asks the following questions:

- Do parties agree or disagree with the analysis contained in the Network Exam Reports summarized above? Please identify the specific elements of agreement or disagreement.
- Are the conclusions in the Network Exam Reports, which focus on wireline telephone service provided by two carriers, applicable to other providers of voice services? Are the conclusions applicable to VoIP service? Are they applicable to wireless service?
- Which recommendations of the Network Reports, if any, should the Commission adopt? Please explain your response. Also, are there recommendations that are only applicable to a particular service? Should the Commission adopt different requirements for POTS, VoIP, or wireless services?
- How should the Commission implement each of the recommendations from the Network Exam Reports? What should the Commission staff and/or its potential contractor do? What are the responsibilities for a service provider provisioning and/or offering POTS, wireless service, and/or interconnected VoIP service?
- What challenges exist in implementing each of the recommendations from the Network Exam Phases 1 and 2? How can these challenges be overcome?

- Which sources of information should the Commission use in assessing the ability of a service provider to offer high-quality POTS, wireless service, and/or interconnected VoIP service? Which sources of information should the Commission use for outages in POTS, wireless service, and/or interconnected VoIP service?

6.1. Party Positions

Parties disagree over whether the findings in the Network Exam Reports can form a basis for revising the current GO 133-D rules applied to POTS service, or instituting new service quality obligations on VoIP and wireless services. AT&T and Frontier oppose the findings of the Network Exam Reports, both on factual and purported evidentiary grounds. Organizations representing ratepayers and other consumers agree with the findings and support expanding GO 133-D rules to VoIP and wireless services. Industry parties other than AT&T and Frontier do not take a position on the findings as they relate to the networks of AT&T and Frontier, but argue that even if the findings are accurate, they still do not form a basis for instituting new service quality obligations on VoIP and wireless services.

AT&T notes that Dr. Debra Aron, AT&T's retained expert witness, concludes the findings of the Network Exam Reports are "replete with unsupported conclusions that are unrelated to the analyses performed in them," and, in many cases "misleading when examined in light of the data, and that merely reflect the author's regulatory philosophy."[150] Dr. Aron also concludes that the Network Exam Reports are "very thin on any analysis at all," and lack the application of basic statistics, such as calculating correlations between subject

[150] AT&T, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 32-33.

variables or assessing whether "apparent correlations between the variables are masking other factors that reported tables fail to control for."[151] Thus, Dr. Aron argues that the conclusions contained in the Network Exam Reports are "disconnected from and not supported by the analyses in the Report(s)."[152] In particular, AT&T claims that the Network Exam Reports contains no effort to ascertain why AT&T has not met the 90 percent in 24 hours restoration metric.[153] Dr. Aron found that a sharp decrease in customer density throughout AT&T California's service area has led to both higher costs and poorer performance relative to meeting the 90 percent in 24 hours restoration metric due to the loss of the benefits from economies of scale and the increase in outages impacting many customers simultaneously due to severe weather events, which tax the available personnel to the greatest extent. For example, Dr. Aron states that for a given number of technicians, the average time to repair 100 outages spread across 30 days is much less than the average time needed to repair 100 outages all occurring on the same day.[154]

Frontier argues the Network Exam Reports are "based entirely on outdated and incomplete data and cannot under California law be used as a basis for prospective service quality rules for the services examined, let alone used as a basis to extend those or similar rules to unregulated intermodal services that were not examined."[155] Further, Frontier claims that, in respect to Frontier

---

[151] *Id.*, at 33.

[152] *Id.*

[153] *Id.*, at 34.

[154] *Id.*

[155] Frontier, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 1.

California, the Reports primarily focus on the period prior to its acquisition of Verizon California in 2016,[156,157] noting that the analysis and conclusions were prior to Frontier's initiation of a corporate restructuring in April 2020, which was approved by the Commission in April 2021.[158] Frontier states that it has addressed the deficiencies raised in the Network Exam Reports.[159]

Cal Advocates agrees with the analysis and findings presented in the Network Exam Reports, asserting the Reports rely on sound methodologies utilizing the carriers' own data and provides analysis that is clear and well-supported to adopt the service quality recommendations in this proceeding. Cal Advocates also contends the Network Exam Reports' methodology includes the tracking of service quality outcomes over time and across communities (based on both geographic and income-based differences) and that examining service quality outcomes over time is foundational to ensuring reliable communications services, no matter the technology type.[160] Cal Advocates opines that, when applying the same methodology used in the Network Exam Reports to the GO 133-D reporting data from facilities-based voice service providers who were not part of the Network Exam, the Commission could have sufficient information to apply GO 133-D service quality standards to VoIP service, as the data demonstrate fluctuations in service quality over the years. For instance, even as the number of working lines for Cox has decreased, the number of trouble report

---

[156] *Id*.

[157] *Supra*., at footnote 139.

[158] D.21-04-008 at 6.

[159] Frontier, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 2-5.

[160] Cal Advocates, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 2.

tickets has not reflected a corresponding decrease[161] and Time Warner and Charter have had difficulties meeting the standard that service is restored within 24 hours for 90 percent of customer outages tickets.[162]

Joint Commenters (CforAT, TURN, and CWA)[163] generally agree with the analysis contained in the Network Exam Reports, though the parties found the Reports could have used different data sets or methodologies to show relationship between service quality and race or income.[164] Joint Commenters assert the Network Exam Reports' description of AT&T and Frontier's poor VoIP service quality justifies service quality requirements for VoIP service, though these parties opine the Commission should not restrict those service quality requirements only to AT&T and Frontier, claiming the Network Exam Reports, as well as consumer statements at PPHs, indicate that some VoIP service quality is substandard. The Joint Commenters' filing also includes other information obtained by CWA through a Freedom of Information Act request regarding complaints filed by Californians with the FCC. Joint Commenters claim that between 2019 and May 2022, Californians filed 3,185 complaints about their wired phone service, and 1,843 complaints about their VoIP service, or 37 percent of all complaints, and the volume of complaints by Californians at the FCC appears to be increasing each year.[165]

---

[161] *Id.*, at 3-4.

[162] *Id*. at 5.

[163] When CforAT, TURN, and CWA file jointly, the organizations identify as "Joint Commenters." The organizations do not always file jointly. This distinction is made throughout the decision.

[164] Joint Commenters, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 2.

[165] *Id.*, at 8-9.

SBUA agrees with the analysis contained in the Network Exam Reports related to service quality and investment focus being greater in higher-income and predominantly white communities than in lower income communities and communities of color. However, with respect to the responsibilities for a service provider provisioning and/or offering POTS, wireless service, and/or interconnected VoIP service, SBUA urges the Commission to require all service providers to provide data demonstrating that residential and small business ratepayers in lower-income communities and communities of color are not systematically receiving a lower quality of service than those in higher-income and predominantly white communities.[166]

RCRC generally agrees with the findings of the Network Exam Reports, also asserting that rural customers over the years have consistently experienced:

- Widespread service quality deterioration and disinvestment (e.g. copper removal), especially with respect to resiliency efforts that would maintain consumer access to service;
- Greater investments into higher-income communities (digital red-lining), disproportionately leaving rural and low-income customers with fewer market options in terms of choice, quality and affordability of options;
- Internet Service Provider relinquishment of DSL service, forcing customers into higher priced products; and
- Imposition of data caps, service speeds not reflective of advertised services, and higher prices for basic connectivity.[167]

[166] SBUA, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 2, 5.

[167] RCRC, Reply Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 2-3.

Furthermore, despite D.20-07-011 and D.21-02-029 adopting, respectively, wireless and wireline provider resiliency strategies—including that wireless and wireline providers install 72-hour backup power requirements in Tier 2 and Tier 3 High Fire Threat Districts (HFTDs)—RCRC asserts that many of these customers still do not have access to 9-1-1 when the power goes out. RCRC claims this is a common experience during automatic fast-trip electrical outages such as PG&E's Enhanced Powerline Safety Settings (EPSS) program. Investor-Owned electric utility fast-trip programs are expanding, but do not have a commensurate level of regulatory scrutiny as Public Safety Power Shut-off (PSPS) events, which are, among other things, required to be a last resort as well as reduce over time through system hardening measures (e.g. covered conductor, vegetation management, undergrounding).[168]

In general, the California Broadband & Video Association does not take a position on the findings of the Network Exam Reports as they relate to the networks of AT&T and Frontier. However, the California Broadband & Video Association asserts the findings of the Network Exam Reports are not applicable to the entire voice industry, since the Network Exam Reports specifically examine two ILECs' copper-based time division multiplexing (TDM) networks, which are fundamentally different from the networks of its members, claiming that even the limited references to VoIP service in the Network Exam Reports focus primarily on digital subscriber line (DSL) -based VoIP on the ILECs' TDM networks, which is different from the hybrid fiber-coaxial (HFC) -based VoIP service provided by its members, as well as the networks of other voice

[168] *Id.*

providers.[169] The California Broadband & Video Association opposes recommendations to extend GO 133 to all voice services, including VoIP, or only to ILECs.[170]

The Small LECs contend the Network Exam Reports do not provide a valid basis to change service quality rules on an industry wide basis, due to the vintage of the data. The Small LECs state the "limited transparency" with which the Network Exams appear to have been conducted, cause them to question the findings and recommendations that the Network Exam Reports contain. However, the Small LECs argue that, even if the Network Exam Reports are valid for Frontier and AT&T, neither the findings nor conclusions therein can be applied to the Small LECs, claiming the findings of favoring higher-income areas, alleged trends regarding deteriorating service quality, assertions of under-investment, and alleged marketing strategies to raise rates and push customers to unregulated platforms are untrue of the Small LECs. The Small LECs take no position as to whether these findings are true for Frontier or AT&T, but they argue such statements are "manifestly incorrect" for the Small LECs.[171]

Consolidated Communications urges the Commission to refrain from adopting policy positions applicable to a broader industry based on arguable trends applicable to two carriers, opining that, "[r]educed to its most basic core,

[169] California Broadband and Video Association, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 3-4.

[170] *Id.*, at 17-20.

[171] The Small LECs, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 2-3.

the Network Exams appear to indicate that network investment in some rural areas lags for the two carriers that were the focus of the Network Exams."[172]

Sonic takes no position on the findings in Network Exam Reports that relate to the networks of AT&T and Frontier. However, Sonic contends that the Network Exam Reports did not include a similar analysis of the networks, operations, investments, and service quality of other providers of VoIP-based services, such as Sonic. Thus, Sonic contends there is no factual or policy basis on which to apply the conclusions of the Network Exam Reports to VoIP service providers.[173] Additionally, Sonic notes that Network Exam Reports do not address challenges that carriers like Sonic, which provision some services using ILEC unbundled network element (UNE) loops and Sonic DSLAMs[174] collocated in ILEC central offices, as well as other wholesale agreements. Sonic claims that "the vast majority of customer service outages that last more than 24 hours are due to one or more problems with the relevant UNE loop and are not caused by customer premises equipment failures or failures in Sonic's equipment. However, the current GO 133-D reporting rules have no mechanism to adjust for this fact. Sonic should not be penalized for failures in UNE loop facilities that are outside its control."[175]

---

[172] Consolidated Communications, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 1.

[173] Sonic, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 4.

[174] According to Newton's Telecom Dictionary, a DSLAM (Digital Subscriber Line Access Multiplexer) is a device at the central office that collects and manages the digital signals from DSL (Digital Subscriber Line) connections, enabling the transmission of data over telephone lines.

[175] *Id.*, at 3.

Similar to arguments made by other industry parties that are not AT&T or Frontier, Verizon asserts the reports are irrelevant to the issue of imposing service quality standards on wireless services, since the Network Exam Reports only studied the networks of AT&T California and Frontier California.[176] CTIA concludes likewise, adding that the Network Exam Reports do not contain findings or recommendations related to wireless voice service.[177] CTIA also alleges the record reflects concerns that the Network Exam Reports have not been "tested through the evidentiary process," and contains challenges to both their substance and conclusions.[178]

6.2. Discussion

We agree with the parties that argue it is not reasonable to adopt industry-wide service quality rules relying on the Network Exam Reports as the sole basis. The Network Exam Reports were conducted solely on the networks of AT&T and Frontier,[179] did not consider the VoIP service offered by cable providers and did not review wireless service. There is significant evidence elsewhere in the record to justify the adoption of service quality rules for VoIP ~~and wireless services~~service, including the NORS, Cal OES, and GO 133-D data sets, as well as the substantial corroboration from members of the public at the PPHs, comments submitted on the Docket Card, and statements made by Tribal and local officials at the workshop. However, it should be noted that the Network Exam Reports

[176] Verizon, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 2-3.

[177] CTIA, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at 4.

[178] *Id.*, at 3.

[179] The Network Exam Phase 1 Report studied Verizon California, prior to its acquisition by Frontier. The Network Exam Phase 2 Report studied Frontier California.

demonstrate that AT&T is not adequately funding certain poorly performing wire centers. This fact is confirmed, perhaps unwittingly, by AT&T's own statements, which implicate that AT&T's poor performance regarding service outages can only be corrected by investing more money[180] and that AT&T is relying on fewer technicians.[181] Joint Commenters, a party that includes CWA, the union representing AT&T technicians, also asserts that in past years, providers have reduced their workforces significantly, including AT&T.[182] AT&T's continued poor and worsening performance against existing service quality standards, the ineffectiveness of its reinvestment efforts, plus its own admissions about its investment indicate there may be a need for a separate Commission investigation. The Commission has also previously found that

---

[180] *See*, AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 11:

Further, the Staff Report simply presumes that customers place importance on outage duration metrics, such as the 90%/24 OOS Metric. But such metrics are entirely arbitrary, and the Staff Report contains no evidence suggesting customers find them useful. Nor does the Staff Report attempt a cost-benefit analysis. The Staff Report fails even to question whether the 90%/24 OOS Metric for the small number of remaining POTS customers is achievable or appropriate in today's communications market. Thus, even if customers did value those metrics – and that is pure conjecture – there is no evidence customers want to pay the increased prices necessary for the chosen level of performance."

At 18: "AT&T California's investments in lieu of fines for failing to meet that metric did improve service quality." (part of the subsection title).

[181] *See*, Resolution T-17780 at 5: AT&T has claimed 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." Additionally, at the September 7, 2023 Workshop, an AT&T representative stated that AT&T's ability to restore service in a manner consistent with the current service restoration standard in General Order 133-D is impacted by the limited technician staffing in relation to the large size of AT&T's service territory. *See*, June 27, 2024 Ruling at 5.

[182] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 31, footnote 83, citing Telecom layoffs continue unabated as AT&T leads the pack – a growth engine with only 1% YoY growth? (Oct. 23, 2023), available at https://techblog.comsoc.org/2023/10/23/telecom-layoffs-continue-unabated-as-att-leads-the-pack-a-growth-engine-with-only-1-yoy-growth/ (last accessed Sept. 3, 2024).

"AT&T … has flatly refused to invest sufficiently to meet the Commission's service quality standards."[183]

We are persuaded by Frontier's assertions that in the years following the Network Exam Reports, it has made both significant investments and progress towards meeting the GO 133-D standards.

AT&T and other industry parties make a number of claims regarding due process. The most relevant issues are discussed in more detail in Section 23. As noted later, the Commission dismisses these claims due to factual and legal misstatements and omissions by these parties.

7. Replacing Single Threshold With Multiple Thresholds

General Order 133-D utilizes single thresholds to enforce minimum service quality standards (e.g., "less than 24 hours"). The Staff Proposal finds that while single thresholds can establish a bright line for ease of measuring carrier service quality compliance, they are inadequate in capturing the severity of service failures.[184] Thus, Staff proposes that the Commission eliminate the use of single thresholds across outage-related service measures and instead use multiple thresholds, focused on network outages and service outages, to reflect increasing severities with escalating penalties. This new penalty structure proposed in the Staff Proposal would apply to plain old telephone service (POTS), fixed interconnected voice over internet protocol (VoIP), and wireless voice services.[185]

The June 2024 Ruling asks whether the Commission should eliminate the use of single thresholds across outage-related measures in favor of multiple

[183] Resolution T-17789, at 5.

[184] Staff Proposal, at 41

[185] June 2024 Ruling, at 1-2.

thresholds to account for increasing severities as outlined by the Staff Proposal. It also asks whether any additional changes be made to Staff's proposed escalating outage repair standards.[186]

7.1. Positions of Parties

Parties disagree on whether the Commission should change its approach regarding the metrics and thresholds it uses to evaluate service quality.

SBUA supports the shift from single thresholds to multiple thresholds in evaluating service quality, asserting that adopting multiple thresholds with escalating penalties for increasing severities will better capture the real impact of service outages on small businesses and residential customers, particularly in economically disadvantaged areas.[187] RCRC agrees that implementing multiple thresholds not only provides a more nuanced understanding of service disruptions but may also encourage greater staffing of service technicians in historically underserved locations that have experienced unaddressed, "chronic" service failures.[188] Cal Advocates views the proposed thresholds as a positive step in the right direction, but also recommends the addition of a call quality metric such as call quality degradation or mean opinion score.[189] Additionally, Cal Advocates asks the Commission to clarify which entities the new metrics and standards apply to, noting that Out of Service Repair Intervals Standard is proposed to be extended to "wireless and VoIP services" generally, but in the

[186] *Id.*, at 2.

[187] SBUA, Opening Comments on Staff Proposal, filed September 3, 2024, at 2.

[188] RCRC, Opening Comments on Staff Proposal, filed September 3, 2024, at 3.

[189] Cal Advocates, Opening Comments on Staff Proposal, filed September 3, 2024, at 4-10. Cal Advocates explains call quality degradation call quality that is not good enough for customers to understand each other. Cal Advocates specifically recommends using the MOS R-factor methodology from the International Telecommunications Union (ITU).

Staff Proposal, the VoIP Outage Repair metric specifically only applies to a subset of facilities-based interconnected VoIP providers and Comcast is missing from this list.[190] Frontier does not oppose the use of multiple thresholds provided the thresholds and base and escalating penalty amounts are reasonable.[191]

However the Small LECs also argue that their relatively overall high level of compliance supports not applying new requirements to the Small LECs.[192] The Small LECs argue that the findings in the Staff Proposal that both penalties and "investments in lieu of penalties" under the current GO 133-D are ineffective is based largely on a carrier-specific analysis of AT&T's and Frontier's lack of compliance with the GO 133-D OOS Repair Interval standard between 2018 and 2023, opining that the focus on one metric and two carriers does not constitute valid evidence that the current penalty framework is ineffective.[193] The Small LECs also contend that the Staff Proposal revisions to the current GO 133-D would:

> impose major costs and burdens on the Small LECs, which is especially concerning given that the Commission has foreclosed cost recovery for operating expenses and corporate expenses that exceed a set of arbitrary caps adopted in the California High Cost Fund A ("CHCF-A") rulemaking. Even if the compliance costs imposed by the Staff Proposal could be recovered through the Small LECs' revenue requirements, the Commission has imposed a strict "rate case plan" on the companies' rate case submissions, such that the revenue requirement impacts of these proposals could not be addressed until 2028 (for "Group A" companies"), 2029 (for

[190] *Id.*, at 12.

[191] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 6.

[192] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 10-11.

[193] *Id.*, at 2.

"Group B" companies"), or 2030 (for "Group C" companies).[194]

7.2. Discussion

To measure better the varying degrees of service quality, including outages and other challenges, the Commission will adopt an approach that uses multiple thresholds. Specific refinements and details of these thresholds are discussed throughout this decision.

8. Eliminating Customer Trouble Reports Standard

Under GO 133-D, the customer trouble reports standard includes both outage-related and general issues. This standard measures the number of trouble reports received from customers. These reports cover an array of issues, including service outages and general dissatisfaction with services. The customer trouble reports standard, which is assessed at the monthly level, varies by the number of working lines. The standards are six trouble reports per month for every 100 working lines for reporting units with 3,000 or more working lines, eight trouble reports per month for every 100 working lines for reporting units with 1,001 to 2,999 working lines, and ten trouble reports per month for every 100 working lines for reporting units with 1,000 or fewer working lines. The enforcement of this standard applies to GRC ILECs and uniform regulatory framework (URF) carriers with 5,000 or more customers, and URF carriers with Carriers of Last Resort (COLR) designation. From 2018 through 2022, not a single reporting telephone corporation incurred chronic failure status in the customer trouble reports standard. However, this standard merely accounts for the

[194] *Id.*, at 4.

number of trouble reports, and does not set requirements for resolution of these reports.

8.1. Positions of Parties

Joint Commenters recommend the Commission continue measuring customers trouble reports, revise the standard, and then apply it to VoIP and wireless service, rather than eliminate it in its entirety. Joint Commenters reason that lines with trouble may not always be reported as lines that are completely out of service, meaning the current standard may not capture situations where there is poor service quality, but the line technically functions.[195] Joint Commenters propose no longer aggregating lines and instead reporting by line, which would eliminate combining small wire centers and remote terminals with larger wire centers.[196] Cal Advocates recommends retaining the customer trouble reports and applying the standard to POTS, VoIP and wireless services.[197]

The Small LECs support eliminating the customer trouble reports standard, stating that it will ease some of the regulatory burdens associated with GO 133-D tracking and reporting for the Small LECs. Frontier also supports eliminating this standard to simplify the service quality tracking and reporting process, particularly given the other proposed changes to GO 133-D would make the compliance process more costly and burdensome.[198]

8.2. Discussion

To focus better on other service quality standards, especially those involving outages, this decision eliminates the customer trouble tickets standard.

---

[195] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 5.

[196] *Id.*, at 16-19.

[197] Cal Advocates, Opening Comments on Staff Proposal, filed September 3, 2024 at 10-12.

[198] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 8.

Instead, this decision further focuses on measurements and requirements in outage-related standards and answer time / customer service standards as discussed throughout this decision.

9. POTS Outage Reporting and Enforcement

As previously noted, GO 133-D requires POTS carriers to report on their out of service repair intervals (OOS) on a quarterly basis. OOS is the time it takes a carrier from the receipt of a customer outage ticket to when the service is restored. The current requirement applies to TDM-based voice services offered by GRC ILECs, URF carriers with 5,000 or more customers, and all COLRs. All carriers must restore 90 percent of the customer service repair tickets within 24 hours, adjusted to exclude Sundays, federal holidays, and delays beyond the carrier's control, such as catastrophic events.

The Staff Proposal found several shortcomings with the current OOS standard. To begin, the requirement in GO 133-D that 90 percent of OOS tickets must have service restored in 24 hours or less is a statewide level, instead of accounting for individual outages, and allows for a situation where carriers may not repair tickets for the remaining ten percent of outages. This reporting standard also may not include community isolation outages reported to Cal OES. As noted above, from 2021 through 2023, Cal OES recorded 46,089 outages, of which VoIP and wireless accounted for 53 percent and 27 percent of the reported outages respectively.[199] Additionally, the OOS enforcement threshold does not distinguish by outage length, meaning the 90 percent standard does not distinguish between outages lasting 24 hours and 1 minute from outages that last

[199] Staff Proposal, at 3.

several weeks.[200] Finally, Staff identifies that, while currently outage reporting and enforcement is technology based (POTS, VoIP, or wireless), from the customer's perspective all outages center around whether they can make or complete a phone call and is not dependent on technology.[201]

To address these issues, Staff proposes to eliminate the chronic failure mechanism in the current GO,[202] meaning that enforcement of penalties would begin immediately, with penalties being assessed on a daily basis for standards that are reported daily on a daily basis and assessed on a monthly basis for standards that are reported by month. Additionally, Staff proposes three primary updates to assess the OOS performance for POTS: a) identify different levels of outage duration in reporting; b) apply escalating penalties based on those durations; and c) establish higher base fine amounts for violations in disadvantaged communities (DAC) or areas of affordability concerns (AAC) communities.[203] As discussed in more detail in Section 12, Staff proposes to eliminate all exemptions to only allow carriers to adjust for state of emergency days declared by the Governor.[204]

Similar to how NORS delineates outages of different durations, Staff recommends that the OOS standard should account for durations of different intervals and not just the 24-hour threshold. The Staff Proposal recommends the OOS standard assess each reported incident at the individual access line level

---

[200] *Id.*, at 35.

[201] *Id.*

[202] *Id.*, at 44. Chronic failure status, used in the context of GO 133-D means a telephone corporation is not penalized until it fails to meet the standard for three consecutive months.

[203] *Id.*, at 36.

[204] Staff Proposal, at 24, 27.

rather than total repair tickets. Staff recommends utilizing a multiplier to increase the fine amount based on the duration of the outages.

To illustrate, the Staff Proposal includes an example for an access line outage that lasts five days or 120 hours in a non-ESJ community, where the total fine amount would be $50, broken down as follows:

- $5 for the first day of outage beyond the 24-hour standard;
- $10 for the second day of outage beyond the 24-hour; standard;
- $15 for the third day of outage beyond the 24-hour standard; and
- $20 for the fourth day of outage beyond the 24-hour standard.

If an access line outage of the same duration (five days or 120 hours) occurs in an ESJ community, the Staff proposed fine amount would be $100, broken down as follows:

- $10 for the first day of outage beyond the 24-hour standard;
- $20 for the second day of outage beyond the 24-hour standard;
- $30 for the third day of outage beyond the 24-hour standard; and
- $40 for the fourth day of outage beyond the 24-hour standard. [205]

9.1. Positions of Parties

Parties disagree over whether the Commission should adopt the Staff Proposal.

[205] *Id.*, at 36-37.

SBUA supports the Staff Proposal's recommendation to eliminate the current Customer Trouble Reports Standard, as discussed in Section 8, which it argues measures compliance by report counts rather than service reliability, allowing for persistent issues to go unresolved, and leaving those without alternative communication options—disproportionately underserved communities and small businesses—most at risk when service fails. SBUA asserts that outage-related standards, such as the POTS and VoIP Outage Repair Standards, with escalating penalties for longer outages are more likely to ensure timely repairs. Further, SBUA appreciates the Staff Proposal's integration of geographical filters to these outage repair standards, which will allow for the Commission to better address any continued service quality issues in ESJ communities, including DACs and AACs.[206]

While Joint Commenters (CforAT, TURN and CWA) generally support the revisions to delete each of the current metrics in favor of the proposed per-line, per-outage credit structure, they do not support the proposal to delete the Chronic Failure Status mechanism, arguing that the proposed new emphasis on an "outage-by-outage" reporting and penalty calculation does not adequately capture the longer-term trends of providers' chronic failures over time nor do these metrics capture the rate at which a provider misses the proposed metric.[207] Joint Commenters also support the proposal to remove all exemptions except the one for catastrophic events.[208] Additionally, Joint Commenters encourage the Commission to adopt additional thresholds, beyond the current GO 133-D

[206] SBUA, Opening Comments on Staff Proposal, filed September 3, 2024, at 3.

[207] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 5.

[208] *Id.*, at 7.

metrics, that would vary by the percentage of time and how far out of compliance a provider was in meeting a service quality metric within a reporting period, observing that the Commission may use this information to access different penalties to incentivize providers to improve their service quality even if it is still below Commission standards.[209] Joint Commenters also recommend the Commission require more granular reporting by providers to help expose potential trends of repeated failures to meet service quality metrics or serve non-compliance in disadvantaged communities. Examples provided by Joint Commenters include assessing fines that increase based on whether the outage was in a community within multiple demographic thresholds, indicating vulnerability, such as a community that is identified as a DAC and also in a High-Fire Threat Zone.[210]

AT&T claims the Staff Proposal fails to demonstrate a need for service quality regulations of voice services in a competitive market.[211] AT&T also states that AT&T California's labor agreements include restrictions on scheduling technicians to work on Sundays and federal holidays, and thus repair work during those times, if even possible, would result in even greater cost increases.[212]

The Small LECs assert the Staff Proposal fails to justify the elimination of the "chronic failure status" penalty threshold, or the failure to meet the same service quality standard for three consecutive months.[213] The Small LECs also

---

[209] *Id.*, at 11.

[210] *Id.*, 12-13.

[211] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 1.

[212] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 21.

[213] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 6.

claim they could not reasonably comply with the proposed reporting of community isolation outages at the granular access line level and that doing so would be inconsistent with the purpose of the Cal OES regulations and would impose excessive new costs on the Small LECs' limited resources and small operations, including the hiring of additional staff.[214]

RCRC supports continuing to allow for exemptions for unplanned, catastrophic events, but agrees that weekends and holidays are not irregular occurrences and, in fact, in certain tourism-dependent areas, weekends and holidays experience a glut of visitors and heighten the need to access emergency services or alerts without disruption.[215]

9.2. Discussion

This decision adopts revised service quality rules that require facilities-based telephone companies and COLRs to repair individual customer POTS outages within 24 hours. Facilities-based telephone companies and COLRs also are required to file with the Commission all POTS Community Isolation reports submitted to Cal OES. The revised rules will allow for a better assessment of individual outages tickets, as well as larger community impacts. The rationale behind, and details of, the revised rules are set forth in Sections 12 (Exemptions), 13 (Automatic Customer Credit), and 14 (General Fund Fine).

10. VoIP Outage Reporting and Enforcement

As noted above, from 2021 to 2023, Cal OES reports recorded 46,089 outages, of which VoIP and wireless accounted for 53 percent and 27 percent of the reported outages respectively. Based on the significant number of VoIP

[214] *Id.*, at 6-7.

[215] RCRC, Opening Comments on Staff Proposal, filed September 3, 2024, at 3.

outages, as well as the similar functionality between fixed interconnected VoIP and POTS service, the Staff Proposal recommends the Commission adopt the same standards and penalty mechanism as proposed for POTS.[216]

10.1. Positions of Parties

Parties disagree whether the Commission should apply GO 133 service quality rules to VoIP service.

SBUA asserts that outage-related standards, such as the VoIP Outage Repair Standards, with escalating penalties for longer outages are more likely to ensure timely repairs. Further, SBUA appreciates the proposal's integration of geographical filters to these outage repair standards, which will allow for the Commission to better address any continued service quality issues in ESJ communities, including DACs and AACs.[217]

The California Broadband & Video Association argues that the proposed standard combining "individual outages" and "community isolation outages" into a single standard essentially would require all such outages to be restored within 24-hours, which is not reasonable. Instead, the California Broadband & Video Association recommends using an individual OOS repair standard for interconnected VoIP providers, with the Commission retaining the existing benchmark to restore service for 90 percent of all OOS trouble reports within 24 hours, and including the exemptions the California Broadband & Video Association requests in Section 12.[218] The California Broadband & Video

[216] Staff Proposal, at 37-38.

[217] SBUA, Opening Comments on Staff Proposal, filed September 3, 2024, at 3.

[218] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 15-17.

Association recommends that the Commission apply the proposed customer credit to community isolation outages.

Noting the complexities of delivering VoIP service, including the likely need to rely on facilities of multiple providers, Velocity Communications, Inc. and ShastaBeam request the Commission clarify that any VoIP rules adopted apply only to the entity that provides the facility or service, meaning that service quality issues associated with physical facilities apply only to the facilities-based providers and only customer-facing issues such as installation, customer service, etc., would apply to resellers.[219] Noting the administrative burden of the proposed rules, Velocity Communications, Inc. and ShastaBeam also request the Commission exempt small, non-CLEC VoIP providers with fewer than 1,000 VoIP customers.[220]

AT&T and USTelecom opine that the federal law and FCC action preempts this Commission from adopting the proposed service quality rules to VoIP service.[221] AT&T claims that the proposed service quality regulations for interconnected VoIP conflict with federal law and policy by:

- regulating interstate services which fall outside the Commission's jurisdiction;
- imposing public utility-type obligations on interconnected VoIP services, contrary to the FCC's longstanding "light-touch" policy towards VoIP;
- imposing public utility-type obligations on interconnected VoIP even though it is an "information service" and thus,

[219] Velocity Communications, Inc. and ShastaBeam, Reply Comments on Staff Proposal, filed September 17, 2024, at 2-3.

[220] *Id.*, at 4-5.

[221] USTelecom, Opening Comments on Staff Proposal, filed September 3, 2024, at 6-8.

under established FCC policy, immune from such regulation;

- treating providers of VoIP as common carriers, contrary to 47 U.S.C. Section 153(51); and
- subjecting providers to service quality obligations that conflict with the FCC's service quality requirements in its Connect America Fund Order.[222]

AT&T also claims that VoIP is a service provided over broadband, meaning that any VoIP outage and repair rules require the repair or installation of broadband as the underlying service, thus VoIP outages rules cannot and should not be addressed in Phase 1 of this proceeding.[223]

Sonic and USTelecom assert that the regulation of VoIP is unnecessary due to the competitive nature of the broadband industry[224] and that imposing additional requirements or penalties will not improve customer experience in part because service outages are often outside the control of the service provider due to power outages and acts of nature.[225] Further, USTelecom claims that the proposed rules are inconsistent with California's goals, arguing that if a provider is spending its capital on additional compliance measures and fines it cannot spend that by further investing in the network.[226]

Cal Advocates states that in the OIR for this proceeding, the Commission reconfirmed its justification: "[i]n the Commission's rulemaking on emergency disaster relief (R.18-03-011), the Commission confirmed jurisdiction over VoIP

---

[222] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 11-15.

[223] *Id.*, at 16-17.

[224] Sonic, Reply Comments on Staff Proposal, filed September 17, 2024, at 3-4. USTelecom, Opening Comments on Staff Proposal, filed September 3, 2024, at 2.

[225] USTelecom, Opening Comments on Staff Proposal, filed September 3, 2024, at 3.

[226] *Id.*, at 3-5.

providers and wireless telephone corporations and defined a minimum level of service and coverage that VoIP and wireless providers must achieve for public health and safety purposes."[227] Cal Advocates adds that "Under California law, the means by which service is provided, whether it be traditional landline, wireless technology, or IP-enabled, does not affect whether the provider meets the definition of a public utility telephone corporation."[228] Cal Advocates also notes that when it adopted D.19-08-025, the Commission held that "VoIP providers clearly fit within the plain language of the definition of a public utility "telephone corporation," and states that the Commission routinely granted applications for CPCNs requested by VoIP providers, an action the Commission could only take if the applicant were a public utility telephone corporation.[229] Cal Advocates also contends that"[c]ontrary to some providers' arguments, the fact that VoIP uses a broadband connection instead of a traditional telephone line does not affect the Commission's jurisdiction."[230] Relying primarily on *Gade v. Nat'l Solid Wastes Mgmt. Ass'n*,[231] and *ACA Connects v. Bonta,*[232] Cal Advocates, CforAT and TURN all argue that federal law does not contain explicit

---

[227] Cal Advocates, Reply Comments on Staff Proposal, filed September 17, 2024, at 4.

[228] *Id.*, at 4.

[229] *Id.*, Cal Advocates cites to D.19-08-025 at pp. 12-13, citing Cal. Pub. Util. Code Section 1001.

[230] Cal Advocates, Reply Comments on Staff Proposal, filed September 17, 2024, at 4. Cal Advocates cites to Order Instituting Rulemaking at p. 2, Order Instituting Rulemaking Proceeding to Consider Changes to Licensing Status and Obligations of Interconnected Voice over Internet Protocol Carriers, R.22-08-008 (August 25, 2022).

[231] *Gade v. Nat'l Solid Wastes Mgmt. Ass'n*, 505 U.S. 88, 98 (1992).

[232] *ACA Connects v. Bonta* 24 F.4th 1233, 1243 (9th Cir. Jan. 28, 2022) rehearing denied, en banc ACA Connects America's Communs. Assn'n v. Bonta, 2022 U.S. App LEXIS 10669 (9th Cir. Apr. 20, 2022). 32 Congressional Research Service, FEDERAL PREEMPTION, A LEGAL PRIMER (May 18, 2023), available at https://sgp.fas.org/crs/misc/R45825.pdf (last accessed June 29, 2023), citing Gade v. Nat'l Solid Wastes Mgmt. Ass'n, 505 U.S. 88, 98 (1992).

preemptive language preventing the Commission from adopting the proposed service quality rules for VoIP service, thus none of the preemption arguments made by various industry parties hold true and the Commission has the authority to adopt VoIP service quality rules in this decision.[233]

Cal Advocates also accuses certain carriers of resurrecting stale arguments that ignore repeated Commission determinations of jurisdiction over VoIP providers, and that neither field preemption nor conflict preemption exists in the space of VoIP service quality.[234] CforAT and TURN concur with this analysis.[235]

10.2. Discussion

This high number of VoIP outages supports applying the proposed service quality standards and penalties to interconnected facilities-based VoIP service providers. Thus, this decision adopts revised service quality rules that require all interconnected facilities-based VoIP providers[236] to repair, within 24 hours, both individual customer interconnected VoIP outages, determined using the OOS customer tickets, or be penalized by a General Fund fine. Similar to POTS service, the revised rules also require all interconnected facilities-based VoIP providers to file with the Commission all VoIP Community Isolation reports submitted to Cal OES. This will allow for a better assessment of outages at the

---

[233] Cal Advocates, Reply Comments on Staff Proposal, filed September 17, 2024, at 5-8. CforAT and TURN, Reply Comments on Staff Proposal, filed September 17, 2024, at 3-8.

[234] Cal Advocates, Reply Comments on Staff Proposal, filed September 17, 2024, at 5-13.

[235] CforAT and TURN, Reply Comments on Staff Proposal, filed September 17, 2024, at 8-13.

[236] D. 24-11-003, Ordering Paragraph 1: "All interconnected Voice over Internet Protocol (VoIP) service providers, with the exception of nomadic-only interconnected VoIP service providers as defined in this decision, must obtain a grant of operating authority through a Certificate of Public Convenience and Necessity or a Section 1013 registration." D. 24-11-003, at Ordering Paragraph 2: "Facilities-based telephone corporations, including all interconnected Voice over Internet Protocol service providers, must obtain operating authority through a Certificate of Public Convenience and Necessity."

community level, including in ESJ communities. The rationale behind, and details of, the revised rules are set forth in Sections 12 (Exemptions), 13 (Automatic Customer Credit), and 14 (General Fund Fine).

We further clarify that the rules adopted herein apply to fixed interconnected VoIP service providers,[237] not nomadic-only interconnected VoIP service providers.[238]

AT&T's argument that the VoIP Outage Repair Standard is not within the scope of Phase 1 of this proceeding ignores that the Assigned Commissioner's Scoping Memo and Ruling placed these issues in Phase 1.[239]

The Commission has asserted jurisdiction over VoIP service, including when it adopted D.24-11-003 in Rulemaking 22-08-008, *Establishing Regulatory Framework For Telephone Corporations Providing Interconnected Voice Over Internet Protocol Service*. Therefore, AT&T's arguments that the Commission's regulation of VoIP service quality conflicts with federal law are meritless.

---

[237] Fixed interconnected VoIP service providers offer voice service tied to physical address associated with subscriber's primary place of use or registered location.

[238] Nomadic-only interconnected VoIP service providers offer voice service not tied to physical address associated with subscriber's primary place of use or registered location.

[239] *See*, Assigned Commissioner's Scoping Memo and Ruling, issued July 22, 2022, at 2-3: "Phase 1 of this proceeding will address the following issues:

1. Are there any existing service quality metrics that should be extended to wireless and interconnected VoIP services? Should specific metrics apply to one type of technology or service and not the other?
2. Should the Commission modify any of the existing service quality metrics and standards or develop new service quality standards and reporting requirements applicable to wireless and interconnected VoIP services? Are there specific metrics that should apply to one type of technology and not others? Are there reporting requirements or metrics that the Commission should no longer mandate?"

11. Wireless Outage Reporting and Enforcement

The Staff Proposal recommends a new wireless outage report and enforcement standard for wireless providers and requires Tier 1 (nationwide) wireless providers (AT&T, T-Mobile and Verizon) to submit their Cal OES reports to the Commission that would penalize wireless carriers for outages that last longer than 24 hours. Similar to the outage repair standards for POTS and VoIP, Staff recommends adding a multiplier to the base fine amount based on the duration of the outages. The penalty for outages that last longer than 48 hours and up to 72 hours would be twice that for outages lasting more than 24 hours and up to 48 hours. Outages more than 72 hours and up to 96 outages would be penalized three times more than outages lasting more than 24 hours and up to 48 hours. Outages in excess of 96 hours would be penalized at four times more than the penalty for outages lasting more than 24 hours and up to 48 hours.[240]

11.1. Positions of Parties

Parties disagree on whether the Commission should adopt the proposed service quality standards for wireless service.

Joint Commenters (CforAT, TURN and CWA) assert that current Commission-imposed fines have not been a sufficient financial incentive to motivate providers to improve their performance, and thus the Commission should revise the enforcement structure to include fines sufficient to motivate providers to meet the service quality standards, including the customer credit mechanism, applying the penalty mechanism to wireless and VoIP providers, with increasing fines based on the severity of a provider's failure to meet the

[240] Staff Proposal, at 39.

standards and the length of service outages, and adjustments to the Chronic Failure Status mechanism.[241]

SBUA asserts that outage-related standards, such as the Wireless Community Isolation Outage Repair Standards, with escalating penalties for longer outages, are more likely to ensure timely repairs. Further, SBUA appreciates the proposal's integration of geographical filters to these outage repair standards, which will address better any continued service quality issues in ESJ communities, including DACs and AACs.[242]

Verizon asserts the proposed outage rule is not supported by the facts in the record,[243] a claim CTIA also makes,[244] and the proposed outage rule would not only increase wireless service prices, but it would deter innovation and investment and even create negative incentives for reporting Cal OES outages.[245] Verizon also claims there is no evidence cited in the Staff Proposal (or elsewhere) that outages have been more severe in DACs than other parts of the State, and no basis for the increased credit amounts proposed for outages in those communities.[246] Verizon also contends that the Staff Proposal would not reduce the incidence of such random and uncontrollable outages, and in the case of significant disasters, access restrictions may outright prohibit wireless providers

---

[241] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 27.

[242] SBUA, Opening Comments on Staff Proposal, filed September 3, 2024, at 3.

[243] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 7.

[244] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 2-5. CTIA argues, that "in sum, the record in this proceeding shows that the Commission's light-touch regulatory approach has fostered intensive wireless industry investments that have improved service quality and lowered consumer prices."

[245] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 21-25.

[246] *Id.*, at 14.

from restoring service or refueling particular sites – which places providers in the untenable position of either incurring penalties for failing to restore service on one hand or, on the other hand, jeopardizing employees' safety, or violating curfews and roadblocks imposed by state and local law enforcement.[247] Verizon also asks the Commission to not adopt the reduced number of exemptions in the Staff Proposal, asserting that incidents such as vandalism, PSPS events, snow storms, or third-party caused problems such as backhaul loss or cybersecurity attacks all fall short of an "emergency declaration."[248] CTIA raises similar claims.[249]

Verizon argues the proposed rules incorrectly presume to impose a "minimal administrative burden, if any" because wireless providers already submit the Cal OES reports, but Verizon claims Cal OES reports "are limited in the data that they provide; they show only that there has been an outage of a certain percentage of a provider's coverage within a zip code(s)…." and do not "identify the impacted users," as wireless providers do not report the number of affected customers within a zip code, nor the number of customers who may have been impacted, which a wireless network cannot identify with certainty.[250] CTIA raises similar concerns.[251]

The National Lifeline Association asks the Commission to exempt wireless resellers from the outage standard, arguing that Tier 1 providers (nationwide) ultimately possess the infrastructure and wireless resellers cannot control how

---

[247] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 16-17.

[248] *Id.*, at 36-39.

[249] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 48-50.

[250] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 17-18.

[251] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 45-48.

the wireless networks are maintained or repaired, making it impossible for wireless resellers in California to repair community isolation outages or restore service when the underlying networks experience service-impacting issues.[252] Verizon in general agrees with the request of the National Lifeline Association, though for different reasons. Verizon states that prepaid customers do not have a bill with a provider, providers do not know a prepaid customer's residential address, and since they are prepaid, there may not be a way to credit their account, as they may no longer be a customer of the penalized provider.[253] Verizon also contends that facilities-based providers should not be responsible for outages as they relate to reseller customers arguing that there is no contractual arrangement between the facilities-based provider and the reseller's customers.[254] The California Broadband & Video Association requests revising the definition for "wireless carrier" to ensure only facilities-based wireless providers are included in GO 133, arguing that non-facilities-based wireless providers (wireless resellers) are unable to control the service quality of the networks they run on.[255]

AT&T opines that the proposed service quality rules for wireless carriers are prohibited by 47 USC Section 332(c)(3)(A), the *Bastien* case, as well as the FCC's field pre-emption to its exclusive jurisdiction over radiofrequency spectrum regulation and usage under Title III of the Communications Act.[256]

---

[252] National Lifeline Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 11-13.

[253] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 34-36.

[254] *Id.*, at 40.

[255] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 26.

[256] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 12-13.

CTIA's comments contain a number of claims that the Commission is preempted by federal law or FCC determinations, the courts, or the Constitution, including the following:

- The proposed penalty mechanism constitutes impermissible rate regulation that is preempted by 47 USC Section 332(c)(3)(A);[257]
- Regulating wireless outages is prohibited by 47 USC Section 332(c)(3)(A), as well as by the Bastien case[258] and the FCC[259];[260]
- The proposed rules impinge on the FCC's exclusive jurisdiction over radiofrequency spectrum regulation and usage under Title III of the Communications Act;[261]
- The proposed rules frustrate federal policy, namely the FCC's decision not to penalize CMRS providers for outages;[262]
- The penalties and customer service provisions violate Section 253(a) of the Communications Act;[263]
- The penalty provisions violate the U.S. Constitution's Contract Clause;[264]

---

[257] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 8-11.

[258] *Bastien v. AT&T Wireless Servs.*, 205 F.3d 983, 988 (7th Cir. 2000) (emphasis added); see also *American Tel. & Tel. Co. v. Central Office Tel., Inc.*, 524 U.S. 214, 223 (1988).

[259] Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, 33 FCC Rcd. 9088, 9104 n.84 (2018) (Small Cell Order) (emphasis added), pets. for review denied in part and granted in part sub nom. City of Portland v. United States, 969 F.3d 1020, 1032 (9th Cir. 2020).

[260] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 11-15.

[261] *Id.*, at 15-19.

[262] *Id.*, at 19-24.

[263] *Id.*, at 24-28.

[264] *Id.*, at 28-32.

- The customer service and related rules violate the First Amendment;[265]
- The proposal to increase fines for outages in ESJ communities violates the Equal Protection Clause;[266]
- If the Commission adopted the proposed rules, it would constitute an abuse of discretion and would lack any factual support;[267] and
- Adopting the proposed rules would be an unlawful delegation of authority by the Commission to Staff.[268]

Velocity Communications, Inc. and ShastaBeam agree with the arguments raised by CTIA that the penalty provisions violate the U.S. Constitution's Contract Clause.[269]

Cal Advocates disagrees with the jurisdictional arguments made by several industry parties, contending that the Commission has already addressed these arguments that the industry parties conflate service quality standards with rate regulation or prevention of market entry, including in D.20-07-011, and that neither field nor conflict preemption are applicable in this case.[270]

Joint Commenters (CforAT, TURN and CWA) ask the Commission to leave open the option for adopting more specific metrics for wireless and

[265] *Id.*, at 32-38.

[266] *Id.*, at 38-41.

[267] *Id.*, at 41-43.

[268] *Id.*, at 43-45.

[269] Velocity Communications, Inc. and ShastaBeam, Reply Comments on Staff Proposal, filed September 17, 2024, at 3-4.

[270] Cal Advocates, Reply Comments on Staff Proposal, filed September 17, 2024, at 15-16.

interconnected VoIP call quality if the reporting under the revised service quality standards, or customer complaints, indicate that call quality is poor.[271]

11.2. Discussion

The Commission will defer to Phase 2 of this proceeding the issue of how best to address wireless outages.

Verizon raises a number of administrative challenges regarding penalizing wireless carriers relying on Cal OES community isolation data, because, for example, impacted user information for wireless outages may not be readily available, or at least not in a manner that does not impact the ability of a wireless carrier to submit a community isolation outage report to Cal OES in a prompt manner. The Cal OES data is the best data set in the record because it measures actual duration of outages in a community. However, that does not mean it is the only data set that the Commission may use. Wireless providers and CTIA are expected to respond to data requests seeking this information.

A more detailed rejection of the legal arguments raised by AT&T, Verizon and CTIA is contained in Section 23. In general, these parties simply recycle previous misstatements of law that either ignore the plain reading of statute or contain faulty analysis of caselaw that the Commission has rejected on more than one occasion.

12. Exemptions

Currently, telephone corporations report both unadjusted and adjusted data to measure OOS performance. Adjusted data allow for the following exemptions that are not subject to GO 133 fine considerations:

- Sundays;

[271] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 2.

- Federal holidays;
- Catastrophic events;
- Absence of customer support; and
- Lack of premise access.

Of the exemptions listed above, Staff identifies that only catastrophic events are unplanned, and therefore it is reasonable for telephone corporations to exclude the days and hours during which these catastrophic events are taking place. With that in mind, Staff propose to eliminate all exemptions and allow carriers subject to GO 133 to adjust only for state of emergency days declared by the Governor.[272]

12.1. Positions of Parties

Parties disagree regarding whether the Commission should reduce the exemptions GO 133-D currently affords carriers. Parties representing consumers generally assert that reducing the number of exemptions will hold carriers more accountable. Parties representing industry generally argue that the Commission needs to allow for circumstances beyond a carrier's control.

RCRC concurs with the Staff Proposal that unplanned, catastrophic events may warrant exemptions and agrees that weekends and holidays are not irregular occurrences. In fact, in certain tourism-dependent areas, weekends and holidays experience a glut of visitors and heighten the need to access emergency services or alerts without disruption.[273] Joint Commenters are concerned that categorical exemptions may permit telephone corporations to avoid accountability, particularly where an outage was foreseeable.[274]

---

[272] Staff Proposal, at 24, 27.

[273] RCRC, Opening Comments on Staff Proposal, filed September 3, 2024, at 3.

[274] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 48-50.

Frontier contends the proposed elimination of all exceptions, except for declared state of emergency days by the Governor, is unreasonable, arguing that the length of the outage may depend on circumstances outside of the carrier's control, such as lack of premise access due to a wildfire or storm even where there is no declared state of emergency by the Governor.[275] AT&T opposes the proposed elimination of exemptions and asks for the following to still be included: cable thefts/vandalism; third-party cable cuts; lack of premise access; and absence of customer support to test facilities.[276] AT&T asks the Commission to add exemptions for restoral efforts that require an 811 Underground Service Alert Program call or a permit.[277] AT&T states that AT&T California's labor agreements include restrictions on scheduling technicians to work on Sundays and federal holidays, and thus repair work during those times, if even possible, would result in even greater cost increases.[278] The Small LECs oppose eliminating the exemptions, arguing that beyond "catastrophic" events, there are other significant impacts beyond a carrier's control that likewise warrant an exemption, such as "wildfires, storms, cable theft, accidental cutting of a fiber cable during construction work by a customer or a customer's contractor, faulty Customer Premises Equipment … and impairment of inside wire within a customer's home, and a customer's inability or unwillingness to allow reasonable access to the premises."[279] The Small LECs contend that carriers should not be subject to penalties for factors outside of their control that impact their ability to

[275] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 6.

[276] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 19-23.

[277] *Id.*, at 23-24.

[278] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 21.

[279] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 4.

maintain or restore service. Claimed factors specific to Small LEC territories include:

- fires that are not declared emergencies in Tier 2 and 3 High Fire Threat Districts, that coincide with territories of the Small LECs, prevent carriers from accessing impacted areas until emergency crews and law enforcement grant access, which prevents the companies from making repairs and restoring service in the proposed time frame;
- several Small LECs have significant service territory that is not accessible during portions of winter when the snowfall and winter storms are severe; and
- service territories include significant areas in Bureau of Land Management or United States Forest Service land, which requires authorization to enter, which can take days or weeks to receive.[280]

The Small LECs also ask the Commission to continue to exclude Sundays and federal holidays for penalty purposes, arguing that the Staff Proposal does not identify any changes since that policy was adopted in 2009 that would justify the elimination of these adjustments, which are particularly important to the Small LECs given their small size, limited resources, and rural, high-cost service areas.[281]

The California Broadband & Video Association does not oppose the elimination of the weekends/holidays exemption. However, the California Broadband & Video Association argues elimination of other existing exemptions lacks a valid basis, as the federal government, other states and even other rules at this Commission all contain exemptions for other situations that are beyond the carriers' control, such as:

- Commercial power outages;

[280] *Id.*, at 5.

[281] *Id.*, at 4-5.

- Cable thefts/vandalism;
- Third-party cable cuts;
- Customers re-scheduling service appointments, or other delay caused by the customer;
- Lack of access to facilities or customer premises; and
- Catastrophic events like fires, earthquakes, and other natural disasters that may not rise to the level of a declared state of emergency.[282]

The California Broadband & Video Association asserts the Staff Proposal would impose fines even if providers comply with all the Commission's rules and take other reasonable precautionary measures to ensure voice service quality, using the example of an extended commercial power outage (e.g., five days) in a HFTD absent a state of emergency, the Staff Proposal would fine the provider for the voice service outage even if the provider otherwise met the Commission's backup power standard (72 hours).[283]

Sonic asks the Commission to still consider other incidents outside a carrier's control, and to specifically include an exception for maintenance or repair of serving facilities owned or controlled by a third party.[284]

12.2. Discussion

In response to comments, particularly those of the California Broadband & Video Association and AT&T, we adopt the following allowable exemptions:[285]

---

[282] California Broadband & Video Association Opening Comments on Staff Proposal, filed September 3, 2024, at 6-10.

[283] *Id.*, at 7.

[284] Sonic, Reply Comments on Staff Proposal, filed September 17, 2024, at 2-4.

[285] Allowable exemptions apply to POTS Outage Repair Standard, VoIP Outage Repair Standard, and Wireless Community Isolation Outage Repair Standard.

- Declared state of emergencies by the Governor of California related to disasters or electric grid outages;
- Natural catastrophes,[286] with the exception of drought, that are not declared state of emergencies;
- Public Safety Power Shutoff (PSPS) events;
- 811 Underground Service Alert Program limited exemption;[287]
- Third party cable cuts;
- Cable theft/vandalism;
- Unplanned loss of commercial power that exceeds any applicable state or federal backup power requirements;
- Customer's request to change appointment; and
- Lack of premise access.

The exemptions apply to both the outage standard in Sections 9 through 11 and the Installation Standard in Section 17.

Wireless and wireline carriers in Tier 2 and Tier 3 High Fire Threat Districts may not claim exemptions from the outage standards in Sections 9 through 11 for power outages related to disasters or natural catastrophes for the first 72 hours because these carriers are required to provide 72 hours of backup

[286] Per Federal Emergency Management Agency Glossary, natural catastrophes can be any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought, or, regardless of cause, any fire, flood, or explosion, in any part of the United States. The glossary is available at: https://www.fema.gov/about/glossary/m#:~:text=1)%20Any%20natural%20catastrophe%20(including,in%20the%20determination%20of%20the (as of March 21, 2025).

[287] The Call811.com web site is managed by the Common Ground Alliance (CGA), an association of 1,700 individuals, organizations, and sponsors involved in the underground utility industry. To prevent damage to underground infrastructure, utilities and others in the industry should call 811 before. The exemption allows the time it takes for 811 to grant access to premise or issue permit to be excluded. More information may be found at the following website: https://call811.com

power, pursuant to D.20-07-011 and D.21-02-029. Any claims by these carriers that providing service was impacted for any other reason must be substantiated with applicable data and reports. If backup power requirements adopted in D.20-07-011 and/or D.21-02-029 are amended, the carriers are required to follow the amended requirements.

All exemptions must be substantiated by incident report, police report, customer request report, or other necessary documentation.[288] Focusing on clearly defined exemptions associated with events outside of a carrier's control will provide proper incentives to carriers to respond promptly to outages that are within their control.

13. Automatic Customer Credits

The Staff Proposal includes several automatic customer credits for violation of service quality standards. The Staff Proposal assesses a base penalty of $5 per day in automatic customer credit for each day that exceeds the installation standard, POTS outage repair standard, VoIP outage repair standard, and wireless community isolation outage repair standard.[289] Staff proposes to assess a base fine amount of $10 per day in automatic customer credit for each

[288] All documentation shall be retained for three years and are subject to audit by Commission. Commission Saff has the authority to reject unsubstantiated or under substantiated exemption requests. GO 133-D Section 6.3 states: "Retention of Records. Quarterly summary records of service measurements for each reporting unit shall be retained for three years. All major service interruption reports shall be retained for three years. All summary records shall be available for examination by Commission representatives during the retention period and special summaries of service measurements may be requested by the Commission."

[289] *Id*.

day that exceeds the standard for violations for these same standards that occur in ESJ communities.[290,291]

13.1. Positions of Parties

Joint Commenters generally support the proposed customer credit mechanisms, especially the increased customer credit for customers in Tribal, AAC, and DAC locations, but recommend revisions to distinguish between customer credits and customer refunds by explicitly stating that a provider that has failed to meet the service quality standards is required to provide an affected customer a refund without the customer requesting the refund, and also provide that affected customer with a customer credit. Further, for customers with multiple lines, the refund or credit should apply separately to each affected line.[292] Joint Commenters also recommend that the credits and refunds begin on the first day of the outage, instead of after the first 24 hours[293] and that if a customer receives customer credits for more than four days in a month, their provider must pay the amount of the customer credit directly to that customer.[294] Additionally, citing to a lack of clarity, Joint Commenters ask that the proposed multipliers apply to customer credits.[295]

RCRC supports the automatic customer credit proposal but recommends changing the fine amount from a dollar to a percentage amount, to allow for upward adjustments without the need for another Commission order. RCRC's

---

[290] ESJ communities include Disadvantaged Communities and Communications Areas of Affordability Concerns.

[291] Staff Proposal, Appendix A, at 52.

[292] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 22-23.

[293] *Id.*, at 24.

[294] *Id.*, at 26.

[295] *Id.*, at 23.

specific language would now have a base assessed for service orders that are not fulfilled within five business days, at $5 or five percent of a customer's bill, whichever is greater, per day for each additional day as an automatic customer credit. The automatic credit for DAC and ESJ communities would be $10 per day or ten percent of a customer's bill, whichever is greater.[296]

Cal Advocates supports the automatic customer credit proposal, but recommends that, in the case of resold service, the automatic customer credit should be paid by the wholesale provider that provides the underlying service.[297] The Small LECs and Frontier contend that if the reseller fails to conform to the Commission's proposed metrics, it should be solely responsible for any resulting fines, as any responsibilities that an ILEC or another wholesaler may have to support resold service would be addressed in applicable interconnection agreements and under the existing standards for such wholesale service.[298]

AT&T opines that the proposed customer credit regime is arbitrary, excessive, and punitive.[299] AT&T also argues that using the Cal OES community isolation outage as the basis for a customer credit is not practical, claiming that community isolation outage reports do not require service providers to identify or track individual customers experiencing out of service conditions: for wireline and VoIP outages, the notice includes the estimated number of potentially impacted end users; and for wireless outages, the notice includes the estimated

[296] RCRC, Opening Comments on Staff Proposal, filed September 3, 2024, at 4.

[297] Cal Advocates, Opening Comments on Staff Proposal, filed September 3, 2024, at 13-14.

[298] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 17-18. Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 15.

[299] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 28.

percentage of coverage degradation in the affected ZIP Codes.[300] Verizon asserts that the proposed automated outage credits to affected wireless customers is infeasible, unlike in the wireline world, because "it is impossible to identify with a reasonable degree of certainty which wireless customers are affected by an outage, and any default or proxy method of identifying affected customers (such as by their Primary Place of Usage) would be imprecise at best (and assumes customers are unable to use service when they may not have been affected at all by an outage)."[301] For similar reasons, Verizon contends the proposed rules cannot apply to prepaid wireless customers insofar as they do not have a Primary Place of Usage.[302] CTIA raises similar concerns regarding the purported unworkability of the proposed automatic credit applying to wireless service, adding that such a customer tracking system also would implicate customer privacy.[303]

Frontier and the Small LECs argue the proposed customer refund violates Pub. Util. Code Section 453.5(a) and Pub. Util. Code Section 453.5(b), which require refunds to apply equally to all customers.[304] Both carriers also argue the

---

[300] *Id.*, at 27.

[301] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 4.

[302] *Id.*

[303] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 44-48.

[304] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 12-14. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 14-17. Pub. Util. Code Section 453(a) ("No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage."); Pub. Util. Code Section 453(b) ("No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of ancestry, medical condition, marital status or change in marital status, occupation, or any characteristic listed or defined in Section 11135 of the Government Code."); Cal. Gov't Code Section 11135 (prohibiting discrimination "the basis of sex, race, color, religion,

Footnote continued on next page.

proposal likely would violate California law requiring that fines imposed under Pub. Util. Code Section 2107 be deposited in the California General Fund.[305]

AT&T claims the Commission is barred from awarding customers damages by Cal. Pub. Util. Code Sections 734 and 2106, because there is no relation between the service, what the customer pays, and the amount of the credit. AT&T asserts Cal. Pub. Util. Code Section 734 limits the Commission to awarding reparations and Cal. Pub. Util. Code Section 2106 provides that actions to recover damages are beyond the Commission's jurisdiction.[306] AT&T and the California Broadband & Video Association also assert that the proposal to require a higher automatic credit in DACs and other ESJ communities is discriminatory.[307] The California Broadband & Video Association recommends that if the Commission nonetheless wishes to study whether communities are affected by outages differently, the Commission should gather census tract-level

---

ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation.").

[305] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 12. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 14. Both cite Assembly v. Public Utilities Comm'n., 12 Cal.4th 87, 102 (1995) (While "[t]he Commission does have the authority to seek penalties against a utility for misconduct," the "statutes applicable to penalties … direct that amounts paid as penalties should be deposited into the General Fund."); D.18-10-020 at 138 (COL 43) ("Fines imposed pursuant to Section 2107 must be paid to the State's General Fund."); D.15-08-032 at 39, citing Assembly, supra, 12 Cal.4th at 102-103 (same); D.94-04-057 at 18 (penalty imposed under sections 701 and 2107 ordered deposited in General Fund "[i]n accordance with [Public Utilities] Code Section 2104"); Pub. Util. Code Section 2104 ("All fines and penalties recovered by the state in any action, together with the costs thereof, shall be paid into the State Treasury to the credit of the General Fund.").

[306] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 28-29.

[307] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 30-31. California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 15.

information for customers who receive proactive credits for qualifying community isolation outages and monitor trends for 24 months.[308]

Frontier argues the credit amount should be reduced in proportion to a carriers' tariffed rates for basic residential services, which it contends is consistent with Pub. Util. Code Section 453.5, asserting that any amount above the pro-rated amount would be considered damages, rather than reparations, and the Commission has no jurisdiction to award damages.[309]

Noting the proposal to eliminate the requirement in Section 8 of GO 133-D, that URF carriers and GRC ILECs[310] "utilize their existing tariff or customer guidebook provisions for customer refunds," and to report quarterly on monthly refunds issues under the carriers' refund policy and instead require all telephone corporations (if applicable) to report quarterly on automatic customer credits by month, Frontier asks the Commission to authorize URF carriers and GRC ILECs to withdraw any refund policies in their tariffs and/or guidebooks in the event the Commission mandates or authorizes customer credits for violations of the service quality standards. Frontier claims that otherwise, URF carriers and GRC ILECs would be unfairly subject to double penalties.[311]

The California Broadband & Video Association argues an automatic customer credit for outages is arbitrary and unreasonable for multiple reasons,

---

[308] California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 13-15.

[309] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 13. Frontier California's tariffed rate for basic residential service is $25.00. Therefore, for an outage beyond the 24-hour threshold, the credit reflect the pro-rated daily rate for each day an outage is not repaired.

[310] *Supra*., at footnote 6.

[311] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 14.

including that a credit may exceed a customer's monthly bill, which the California Broadband & Video Association contends is excessive.[312] The California Broadband & Video Association recommends the Commission instead adopt a proportional customer credit framework similar to that recently adopted in New York, where if a community isolation outage (as defined by Cal OES) continues for 24 hours or more, the provider shall proactively credit affected customers for 1/30th of their monthly voice bill for each 24 hour outage period, or fraction thereof, beginning 24 hours after the outage. For outages caused by events within a provider's control, the first 24-hour period would begin at the start of the outage. For outages caused by a loss of commercial power, the first 24-hour period would begin when commercial power is restored. For outages caused by other events outside a provider's control, the first 24-hour period will be deemed to begin when restoration of service is reasonably within the provider's control.[313]

CTIA asserts:

> This disparate treatment is irrational and untethered to any goal the staff seeks to advance, and therefore would violate the constitutional guarantee of "equal protection of the laws" even under rational-basis review. The Fourteenth Amendment to the U.S. Constitution guarantees to all persons (including

[312] The California Broadband & Video Association cites U.S. v. Bajakajian (1998) 524 U.S. 321, 322 (declaring that a punitive forfeiture that is "grossly disproportional to the gravity of the offense that it is designed to punish" is a violation of the Eighth Amendment's Excessive Fines Clause). See also People ex rel. Lockyer v. R.J. Reynolds Tobacco Co. (2005) 37 Cal. 4th 707, 728 (stating that penalties must consider, among other factors, culpability and the relationship between the harm and the penalty); Final Opinion Adopting Enforcement Fines, D.98-12-075, 1998 Cal. PUC LEXIS 1018, at *9-*10 (Dec. 17, 1998) (the Commission must account for, among other things, the severity of the offense, conduct of the utility, and totality of the circumstances related to the violation).

[313] The California Broadband & Video Association, Comments on Staff Proposal, filed September 3, 2024, at 11-13.

> businesses) "equal protection of the laws." The Equal Protection Clause "is essentially a direction that all persons similarly situated should be treated alike." This concept of "equal protection" is the inviolate essence of the rule of law." (U.S. Const. amend. XIV; see, e.g., Hartford Steam Boiler Inspection & Ins. Co. v. Harrison, 301 U.S. 459, 462 (1937) ("[T]he appellant company had been licensed to do business in the state and was entitled to equal protection in conducting that business.")[314]

The National Lifeline Association claims that:

> Attachment 1 to Decision 20-10-006 makes clear that the Basic and Standard Plan must be offered at no co-pay to California LifeLine subscribers. Given that wireless California LifeLine providers offer LifeLine service to subscribers for free, forcing these providers to now supply customer credits when out of compliance with proposed service standards would be unreasonable. Customer credits are meaningless and unnecessary for a free service where there is no charge to apply the credits against. The fact that imposing a customer credit is inappropriate in this context further indicates that the Commission had not considered extending the customer credit mechanism and the underlying Wireless Community Isolation Outage Repair Standard to wireless California LifeLine service providers, which are primarily wireless resellers.[315]

13.2. Discussion

Adding a customer credit component to the penalty structure in GO 133 will ensure that those directly impacted by outages receive direct relief.

In response to comments regarding the reasonableness of the automatic customer credit and penalty structure, the Commission adopts a modified

[314] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 45-46.

[315] National Lifeline Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 18.

enforcement structure for POTS and interconnected VoIP services and will create parallel and concurrent credit and penalty structures. First, the Commission adopts the recommendation of the California Broadband & Video Association to institute an automatic customer credit equal to 1/30th of the service's monthly bill for each day that exceeds the 24-hour repair standard. The credit applies to the charge associated with the service, not user fees or other government-mandated fees and taxes. We agree with the California Broadband & Video Association's argument that this component of the penalty should be in proportion to days of service lost.

Concurrently, the Commission will establish a penalty system for fines payable to the general fund starting from a base of $5 per line per day for outages lasting longer than 24 hours and subject to increasing multipliers for fines for outages lasting longer than 48 hours as discussed in more detail in Section 14.

While we do not adopt higher credits for violations in ESJ communities at this time, we will, as the California Broadband & Video Association suggests, collect data on GO 133 violations in ESJ communities as part of the quarterly GO 133 reporting and determine if there is a need to address further enforcement actions in those communities. GO 133 reporting will require delineation of violations in ESJ and non-ESJ communities.

The Commission adopts the revised automatic customer credit requirement for installation standard violations for each day that exceeds the standard. We clarify that the automatic customer credit requirement applied to POTS service providers, any COLR, and fixed interconnected VoIP service providers. The customer credit does not apply to resellers.

14. General Fund Fines

The June 2024 Ruling asks if, in addition to the customer credit described above, the Commission should levy an additional fine on carriers that have not met the Commission's service quality standards. The Staff Proposal recommends the Commission continue to impose fines payable to the State's General Fund, suggesting that the Commission add "a customer credit fine mechanism to the existing fine structure, so monies are not going to the General Fund exclusively."[316]

14.1. Positions of Parties

Joint Commenters agree that the current fine mechanisms have been insufficient to meaningfully improve providers' service quality.[317] The current investment in lieu of fine mechanism transforms the service quality standards from a requirement (i.e., providers must meet those standards) to a question of financial analysis (i.e., is failing to meet the service quality standards less costly than meeting those service quality standards). Additionally, providers can point to the investment in lieu of fine mechanism as evidence that they are taking steps to improve service quality, even when real-world data indisputably demonstrates that they are not:

> "[T]he existing penalties authorized in General Order 133-D have been ineffective at ensuring that carriers provide appropriate levels of service quality for their customers. This is evident from the ongoing and longstanding failure of carriers to meet their obligations, notwithstanding the penalty mechanisms currently in place. If the existing penalties created sufficient economic incentive to cause carriers to allocate sufficient resources to ensure the timely maintenance

[316] Staff Proposal, at 45.

[317] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 28.

> and repair of their networks, service quality problems would not persist (or at least the extent of problems would drop over time)."[318]

Joint Commenters also contend that not only has the fine mechanism failed to achieve its intended result, but that "In at least one instance, one provider, AT&T, has flatly refused to invest sufficiently to meet the Commission's service quality standards."[319] Joint Commenters support the addition of a customer credit to the existing fine structure, but expressed concern that the Staff Proposal appears to eliminate the existing fine structure. Joint Commenters argue the Commission should increase the fines that providers pay to the General Fund, expand the fines to VoIP and wireless providers, in addition to requiring customer credits, claiming that previous Commission-imposed fines have not been a sufficient financial incentive to motivate providers to improve their performance.[320]

Frontier, AT&T, and the Small LECs contend that if the Commission adopts the automatic customer credit proposal, the Commission also should not impose General Fund penalties, as that would amount to the carriers being penalized twice for the same problem.[321]

AT&T claims the GO 133-D penalties form part of the current unnecessary and counterproductive service quality regulation regime, asserting that "[w]here

---

[318] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 26-27. Also, CforAT and TURN, Opening Comments on Staff Report, filed May 18, 2023, at 12.

[319] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 29. Citing to Resolution T-17789 at 5.

[320] Joint Commenters, Comments on Staff Proposal, filed September 3, 2024, at 26-27.

[321] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 15. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 18. AT&T, Reply Comments on Staff Proposal, filed September 17, 2024, at 18.

there is robust competition, the marketplace ensures optimal quality of service attuned to customers' needs."[322] AT&T claims that its expert witness, Dr. Aron, examined "the penalty rules in the other states in which an AT&T ILEC provides service and found, using regression methodology, no statistically significant difference in measured service quality in states/years where penalties were imposed and those where they were not imposed."[323] Dr. Aron also found that "if increasing penalties for non-compliance increases performance on service quality metrics imposed by the Commission, this increased performance on these metrics would not only be expected to increase costs and, therefore, prices, it could divert resources from other product qualities or characteristics, and from other services, that consumers value more."[324] AT&T adds that the Commission should decline to adopt any fines because, in its opinion, a need for service quality regulations has not been established.[325]

14.2. Discussion

As noted above, concurrent with the revised and adopted customer credit mechanism, the Commission concludes that assessing a fine payable to the General Fund starting from a base of $5 per line per day for outages lasting longer than 24 hours is appropriate. This approach is reasonable in light of the high number of outages for both POTS and VoIP services and is intended to incent service quality improvements.

---

[322] AT&T, Opening Comments on Staff Report, filed May 18, 2023, at 11. AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 10.

[323] AT&T, Reply Comments on Staff Proposal, filed September 17, 2024, at 18.

[324] *Id*.

[325] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 44.

A penalty mechanism that consists of a fine payable to the General Fund and an automatic customer credit does not penalize carriers twice for the same violation. The automatic customer credit ensures impacted customers do not pay for services they are not receiving.

We clarify that the General Fund fine component of the adopted penalty mechanism does not apply to resellers.

15. Investment in Lieu of Fines Mechanism

D.16-08-021 introduced the option for telephone corporations to propose to invest twice the amount of the annual fine in their network "provided that the telephone corporation demonstrates that the expenditures are incremental, directed at the service quality deficiencies leading to the fine, and in an amount that is twice the amount of the tabulated fine."[326] D.16-08-021 also concludes that the public interest "requires that telephone corporations subject to penalties be authorized to propose alternative means to expend twice the amount of the fine to improve service quality for customers."[327] Both AT&T and Frontier reason that instead of paying a fine to the General Fund, investment in lieu of a fine allows these carriers to reinvest those dollars into infrastructure to improve service quality.[328] AT&T invested $11.8 million for failure to meet the OOS standard in 2017 and 2018, whereas Frontier invested $2.9 million for failure to meet the OOS standard in 2018.[329]

Despite these investments, the Staff Proposal states that neither AT&T nor Frontier has demonstrated sustained improvement in overall OOS performance.

---

[326] D.16-08-021, at 23-24.

[327] *Id.*, at Conclusion of Law 7.

[328] Joint Summary of the September 7, 2023 Workshop, at 19-20.

[329] Staff Report, at 15-17.

Instead, Staff in its proposal relies on data that demonstrates that AT&T's and Frontier's investments in lieu of fines for OOS have been ineffective and both carriers have failed to improve their OOS performance. As such, retaining the current option of investing twice the annual fine amount does not serve the public interest. If the impetus of this alternative was to encourage investment in projects and infrastructure, then the amount of investment required either was too small, or the investments were improperly targeted to demonstrably improve overall statewide OOS metrics. With or without this alternative, Staff asserts investment in projects and infrastructure will naturally take place due to the competitive nature of the industry, and in fact, the investment in lieu of fine amounts are rather insignificant. For instance, AT&T claims it invested nearly $8.3 billion in wireless and wireline networks from 2019 to 2021 alone which is over 700 times the amount AT&T spent on its network through the investment in lieu of fine alternative in 2018 and 2019.[330]

15.1. Positions of Parties

Joint Commenters argue that the current capital investment mechanism has not been effective and should be eliminated. However, if the Commission retains it, Joint Commenters recommend that the investment in lieu of fine mechanism should only allow providers to use that mechanism to substitute for fines payable to California's General Fund, not to avoid providing customer credits.[331] Further, Joint Commenters assert the current investment in lieu of fines approach affords providers too much flexibility in how they spend their investment in lieu of fines monies, resulting in no improvement in service

[330] Staff Proposal, at 42-43.

[331] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 27.

quality, or even in increasingly lower levels of compliance with existing service quality standards. While these parties support higher financial penalties, they argue that simple increases to the penalty amount also would likely be insufficient to improve service quality. Instead, the Commission should increase its oversight of providers' investment decisions, including that "the Commission direct the location and nature of the investment to improve service."[332] Joint Commenters do not support allowing OpEx investments in lieu of financial penalties, arguing that while the increased hiring and retaining of technicians may improve service quality, allowing providers to invest in hiring and retaining technicians rather than pay a fine "essentially rewards those providers for having failed to hire and retain sufficient technicians in the past." Joint Commenters also assert that "complicated corporate structures of providers and their affiliates, as well as those providers' lack of transparency regarding budgeting and spending, it would be nearly impossible for the Commission to verify that providers were training and hiring technicians using money in excess of already budgeted funds or to verify that those new technicians were addressing service quality issues."[333]

Noting the difficultly with ensuring that in lieu of fine penalties are appropriately targeted, and with little assurances that investments do not include projects already scoped, RCRC recommends the Commission pair any approved in lieu of fine penalty mechanism with an Order Instituting Investigation (OII) to audit expenditures and ensure durable improvements to service quality for the customers affected by service failures or consider disqualifying or restricting carriers from receiving Commission issued funds,

[332] *Id.*

[333] *Id.*, at 31-32.

such as the California Advanced Services Fund, until service quality violations have been cured.[334] RCRC proposes requiring providers to allow for open access to their infrastructure as an alternative.[335]

AT&T opines that the "surface level analysis" in the Staff Proposal "fails to take a deeper dive into the data which would reveal that the selected project areas experienced a meaningful increase in service quality."[336] Regardless of that opinion, AT&T agrees with the Staff Proposal that there is no need for the investment in lieu of fine option. AT&T also claims that the Commission is preempted from imposing service quality regulations on wireless and VoIP services and cannot adopt regulations that would dictate how service providers staff or build their networks.[337]

Frontier supports retaining the investment in lieu of fines mechanism, rather than eliminating it, disputing that there is a lack of evidence that certain prior investments were incremental or resulted in improved service quality.[338] Frontier and the Small LECs argue that the Commission should maintain the existing investment in lieu of fines mechanism, contending that the premise that prior AT&T and Frontier targeted investments did not result in statewide improvements in their compliance with the Commission's OOS Repair standard, is incorrect because investments under General Order, Section 9.7, are not

[334] RCRC, Opening Comments on Staff Proposal, filed September 3, 2024, at 5.

[335] *Id*.

[336] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 44.

[337] *Id*.

[338] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 16.

statewide.[339] Further, the Small LECs assert that concerns about AT&T's and Frontier's prior investment projects do not justify eliminating this option on an industrywide basis.[340] Frontier asserts that a penalty to invest no less than twice the amount of the carrier's annual fine is insufficient to improve service quality in the particular wire centers or areas targeted for investment.[341]

The Small LECs do not support revising the investment in lieu of fines mechanism to include OpEx. The Small LECs claim to face unique challenges, due to being located large distances from major metropolitan areas and having a limited local labor pool. Additionally, it would prove inefficient to time the penalty with each rate case cycle.[342]

Frontier opines that allowing carriers to invest in operational expenses as part of the investment in lieu of fines mechanism will not necessarily ensure improved service quality "by a significant margin," which would be difficult to measure and will depend on many factors beyond the specific new employee(s) hired. However, Frontier suggests revising the proposal to allow carriers with an option to invest an incremental amount of operating expenses on the retention of plant technicians or customer service representatives to improve customer service or service quality. The amount would be at least the amount of the annual customer credit or fine amount.[343] Frontier adds that the Commission should not interfere with a carriers' employment decisions to hire or terminate a particular

---

[339] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 16. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 18-19.

[340] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 19.

[341] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 16.

[342] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 18-19.

[343] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 17.

employee but could require that the carrier commit to maintaining a particular technician or service representative position for a minimum of two years. Frontier suggests that Staff could request reports on the investments and may even suggest investments, but that Staff should not be permitted to direct investments, arguing that carriers are much better suited based on their personal knowledge of their facilities, investments and employees to identify areas in need of incremental investment that would benefit consumers.[344]

Arguing there is no evidence of underinvestment in DACs and other ESJ communities, Frontier opposes a requirement that investments prioritize DACs and ESJ communities.[345]

The California Broadband & Video Association recommends removing the requirement that a telephone corporation that fails to meet the standards file a Tier 2 Advice Letter annually showing the months it did not meet the standards and calculating the applicable fine, asserting that other proposed modifications, including the customer credits, eliminate the need to further calculate fines and duplicate the quarterly reporting that would otherwise be required.[346]

15.2. Discussion

While the presumption behind the investment in lieu of fines mechanism – requiring carriers to invest funds to improve their service quality is preferable to General Fund fines that will not lead to network investment and improvement –

---

[344] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 17-19. Frontier recommends Staff require any needed reporting upfront, such as financial documentation to show the hiring is incremental, a statement of job duties of the proposed new position(s) and a description of how the particular operational expenditure is intended to address a specific service quality deficiency.

[345] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 19.

[346] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 26.

was well intentioned, the record demonstrates that the current investment in lieu of fines mechanism has not led to improved service quality standards overall, meaning a different approach is necessary. As discussed in the next section, the Commission will instead pursue service quality improvements through Corrective Action Plans.

16. Corrective Action Plans

Section 7 of GO 133-D allows for Staff investigations and Corrective Action Plans for telephone corporations that fail to meet service quality standards for two consecutive months or more. Both aim to address prolonged periods of failure to meet minimum service levels. The Commission previously approved Corrective Action Plans proposed by telephone corporations in lieu of paying the fine, yet these plans did not necessarily bring about the level of improvements anticipated by the Commission. For example, the Commission approved AT&T's alternative proposals for mandatory corrective action for two consecutive years in 2018 and 2019. Those two Corrective Action Plans amounted to $11.8 million worth of investment projects. Instead of improved performance, AT&T showed a decline in performance and failed the OOS standard from 2019 to 2023, restoring less than 50 percent of the outage tickets timely during that span.[347] Thus, Staff recommend the Commission either reform the investment in lieu of fine mechanism, or consider other enforcement mechanisms such as increasing the base amount for the investment in lieu of fine alternative, requiring that the Commission direct the location and nature of the investment to

[347] Staff Proposal, at 30.

improve service, or replacing the investment option with another enforcement mechanism.[348]

The June 2024 Ruling asks if the Commission should continue to delegate to Staff the ability to require carriers who fail to meet service quality standards to file a Corrective Action Plan and what, if any, corresponding changes should be made to the Corrective Action Plan requirement.[349]

16.1. Positions of Parties

Many parties that filed comments did not comment on this issue. The parties that commented on this issue disagree on the approach the Commission should take.

Joint Commenters generally support increased options for Commission Staff to enforce monthly Corrective Action Plans and ensure providers meaningfully improve their networks to meet the Commission's service quality requirements. General Order 133-D requires providers to file a Corrective Action Plan for each month a carrier is in chronic failure status. However, Joint Commenters claim that AT&T has been in chronic failure status for over a decade, should have filed a Corrective Action Plan for each month for the last decade, but these monthly Corrective Action Plans are not public and have not resulted in meaningful improvement in AT&T's network. Joint Commenters recommend making the Corrective Action Plans publicly available on the Commission's website and that they include: whether the affected communities are disadvantaged communities; if the affected communities are subject to increased threats of natural disasters; when the communities last experienced an

[348] *Id.*, at 50.

[349] June 2024 Ruling, at 7.

outage; and the number of technicians the provider had staffed for that community immediately prior to and after the outage.[350] Joint Commenters contend that GO 133-D is silent as to what measures Staff can undertake to enforce the monthly Corrective Action Plans and ask the Commission to delegate to Staff the discretion to recommend enforcement measures for providers who fail to submit monthly Corrective Action Plans, and for providers who submit monthly Corrective Action Plans but fail to identify correctly or improve performance towards meeting the Commission's service quality standards, including the authority to recommend enforcement under Rule 1.1 of the Commission's Rules of Practice and Procedure if it should find that statements in any Corrective Action Plans are false or misleading.[351]

In response to the question of whether Staff should continue to be authorized to require Corrective Action Plans from telephone corporations who fail to meet service quality standards for two consecutive months or more, both Frontier and the Small LECs claim the Staff Proposal does not provide a factual basis for this proposed revision and that the proposed changes to Corrective Action Plans appear to relate to investments in lieu of penalties.[352]

AT&T opines that the "surface level analysis" in the Staff Proposal "fails to take a deeper dive into the data which would reveal that the selected project areas experienced a meaningful increase in service quality."[353] Regardless of that opinion, AT&T agrees with the Staff Proposal that there is no need for the Corrective Action Plans. AT&T also claims that the Commission is preempted

---

[350] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 34.

[351] *Id.*, at 35.

[352] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 19.

[353] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 44.

from imposing service quality regulations on wireless and VoIP services and cannot adopt regulations that would dictate how service providers staff or build their networks.[354]

16.2. Discussion

The record demonstrates that the existing investment in lieu of fine mechanism did not lead to significant investments needed to improve overall service quality. Going forward, the Commission will rely on Corrective Action Plans to improve a carrier's deficient service quality. This will facilitate larger investments that should reduce the number of outages, as well as outage duration. Carriers should prepare their Corrective Action Plans to account for increased capital and operational investments to improve deficient service quality, as well as more creative solutions.

The Commission adopts an updated Corrective Action Plan procedure that applies to POTS and fixed interconnected VoIP service. These telephone corporations are required to submit a Corrective Action Plan as a Tier 3 Advice Letter if they fail to repair 90 percent of the access line outages within 24 hours in a calendar month for six or more months within a calendar year. The Corrective Action Plan must include a detailed outline of specific actions the telephone corporation plans to take to improve performance, achieve compliance, and prevent recurring issues within a two-year span, including timelines, assignment of responsible staff or departments, establishment of performance metrics, and an outline of progress monitoring mechanisms.

The telephone corporation must demonstrate meaningful progress in meeting service quality standards within a two-year span. The first six months

[354] *Id.*

constitute the *implementation* phase. The remaining 18 months constitute the *assessment* phase. Supplemental quarterly reporting is required during the two-year span when the Corrective Action Plan is in place. The telephone corporation would not be subject to additional Corrective Action Plans until the Commission dispenses with the current plan.

If the telephone corporation fails to make appreciable progress towards meeting service quality standards for six or more months during the *assessment* phase, the Commission shall initiate an order instituting investigation (OII) into continued noncompliance or pursue other appropriate enforcement action.

17. Installation Interval and Installation Commitment Standards

Pursuant to GO 133-D, the standard installation interval for GRC ILECs (aka the Small LECs) is five business days, with the standard of meeting 95 percent of the total commitments.[355] The Small LECs account for roughly 1.4 percent of the over 3 million POTS lines in California.[356] Staff proposes extending the requirement to the Uniform Regulatory Framework (URF) ILECs and increasing the standard to 100 percent of new installation requests being met in five business days, with exceptions.[357] Collectively, these two service quality standards would ensure telephone corporations establish basic service within five business days. Enforcement of these two standards currently is limited to GRC ILECs, which account for only 1.4 percent (46,241 lines) of all POTS lines in California. In contrast, URF ILECs and URF CLECs respectively account for 44

[355] Staff Proposal, at 39-40.

[356] *Id.*, at 40.

[357] *Id.*, at 40-41.

percent (1,413,555 lines) and 54 percent (1,745,085 lines) of the POTS lines, a notable exclusion.[358]

Staff found only eight violations from 2018 through 2022 during which GRC ILECs reached chronic failure status by failing to meet the standard for three consecutive months and incurred a total fine amount of $10,725. Despite a high level of compliance with these two standards, it does not necessarily mean that all current or prospective GRC ILEC customers can acquire basic service within five business days.

Staff proposes revising the installation interval standard to require telephone corporations to fulfill 100 percent of the commitments within five business days, rather than 95 percent, subject to exemptions, and to extend the requirement to URF ILECs. To ensure compliance for existing and prospective customers, the proposed installation standard would be based on individual service orders and not on aggregate totals or averages with service orders that fail to meet the five-business day requirement being penalized. Additionally, parties were asked to comment on whether the revised installation standard should apply to all wireline companies, such as CLECs.[359]

17.1. Positions of Parties

Parties disagree over whether the Commission should adopt the proposed installation standards.

Joint Commenters support the proposed revisions and expanding the revised installation standard to CLECs, though they posit that the Commission should consider whether an exemption might be granted to new, non-ILEC

[358] *Id.*, at 39.

[359] Staff Proposal, at 39-41.

COLRs or an ILEC that is assuming COLR responsibility in another ILEC's territory, given that a new COLR may need to purchase some or all existing ILEC outside plant that is in poor condition and would preclude immediate installation of new service, or may need to construct new facilities, or remediate existing utility support structures, including poles.[360]

SBUA supports extending the installation standard to URF ILECs and increasing the standard to 100 percent of new installation requests within five business days. This adjustment is consistent with D.96-10-066 and the Commission's commitment to ensure that all customers, including those in underserved communities, receive the essential services they need. SBUA also supports the recommendation to base compliance on individual service orders rather than aggregate totals or averages, asserting this approach will help identify and address specific cases of non-compliance, ensuring that service providers are held accountable for every installation order. SBUA argues the proposed fine structure for failing to meet the Installation Standard is a necessary enforcement mechanism that will incentivize carriers to prioritize timely installations. SBUA also supports extending the installation standard to CLECs.[361]

AT&T and Frontier argue that the Staff Proposal does not identify a problem with the timeliness of installations for URF ILECs to support the extension of this standard to URF ILECs, asserting that "the increasingly competitive intermodal telecommunications market is sufficient to ensure timely

[360] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 13-14.

[361] SBUA, Opening Comments on Staff Proposal, filed September 3, 2024, at 2-3.

installations."[362] Frontier and the Small LECs argue the five business-day installation interval standard should remain at 95 percent of the commitments consistent with the current minimum standard level, contending that setting the standard at 100 percent does not account for delays caused by factors outside of carriers' control, even if the Governor has not declared a state of emergency.[363] AT&T proposes adding eight hours to the initial outage interval, thereby increasing it to 32 hours (excluding weekends and holidays), claiming it would allow for a situation where a repair ticket is made early in the morning (e.g., 9 AM) that cannot be inserted in a technician's workload for that day be could be repaired the next business day (e.g., by 5 PM) to avoid the proposed customer credit.[364]

The Small LECs contend the Staff Proposal's findings noting the Small LECs' "high level of compliance" with the installation commitment and installation interval standards suggest the proposed installation standards are unnecessary for the Small LECs.[365]

Frontier and the Small LECs oppose the Commission adopting the proposed deletion of the following language in GO 133-D, Section 3.1(a): "When a customer orders basic service, he/she may request additional features, such as call waiting, call forwarding, etc. If an additional feature is included in a basic service installation, the installation interval should only reflect the basic service

[362] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 8. AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 32-34.

[363] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 7. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 9.

[364] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 7-8. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 30.

[365] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 10.

installation." Frontier and the Small LECs opine that this language clarifies that the standard only applies to basic local service.[366]

The Small LECs also argues that the Staff Proposal does not justify the proposed new definition of "Installation of Telecommunications Service" in place of the current definition of "Installation" in Section 1.3(r) and should retain the current definition. The Small LECs opine that the proposed definition is unnecessarily broad and could be interpreted to encompass broadband services, which is outside the scope of Phase 1, and other services beyond basic telephone service.[367] The California Broadband & Video Association also requests the deletion of the proposed definition.[368]

Noting the complexities of delivering VoIP service, including the likely need to rely on facilities of multiple providers, Velocity Communications, Inc. and ShastaBeam request the Commission clarify that any VoIP rules adopted apply only to the entity that provides the facility or service, meaning that service quality issues associated with physical facilities apply only to the facilities-based providers as well as customer-facing issues such as installation and customer service..[369] Claiming the administrative burden of the proposed rules, Velocity Communications, Inc. and ShastaBeam also request the Commission exempt small, non-CLEC VoIP providers with fewer than 1,000 VoIP customers.[370]

---

[366] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 7-8. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 9.

[367] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 9-10.

[368] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 26-27.

[369] Velocity Communications, Inc. and ShastaBeam, Reply Comments on Staff Proposal, filed September 17, 2024, at 2-3.

[370] *Id.*, at 4-5.

17.2. Discussion

It is appropriate to apply the same standard to all wireline services. Thus, the Commission adopts installation standard contained in the Staff Proposal, as applied to POTS and fixed interconnected VoIP service providers.[371]

18. Answer Time Standard/ New Customer Service Standard

General Order 133-D requires that live agents answer 80 percent of phone calls each month within 60 seconds. This standard applies to GRC ILECs,[372] URF carriers with 5,000 or more customers, and COLRs. Telephone corporations can use either an interactive voice response (IVR) or automatic response unit (ARU) system to prompt customers to speak to a live agent. However, the standard does not limit how many sets of IVR or ARU prompt options the customer must go through prior to speaking with a live agent. The current standard also does not evaluate whether actual solutions were provided to the customers to resolve the issue being reported.

The Staff Proposal recommends maintaining the existing standard, but adding the requirement that a live agent must answer 100 percent of customer service calls within five minutes.[373] Under the Staff Proposal, telephone corporations must offer a chat component on the carrier's webpage to reach those who cannot access voice services and include a postal mail option and

---

[371] All interconnected Voice over Internet Protocol (VoIP) service providers, with the exception of nomadic-only interconnected VoIP service providers as defined in this decision, must obtain a grant of operating authority through a Certificate of Public Convenience and Necessity or a Section 1013 registration. Facilities-based telephone corporations, including all interconnected Voice over Internet Protocol service providers, must obtain operating authority through a Certificate of Public Convenience and Necessity.

[372] *Supra*., at footnote 6.

[373] Staff Proposal, at 41.

billing-related inquiries must be addressed and, if necessary, reconciled by the next billing cycle.

To better incent resolution for customers, staff proposes to rename this standard the Customer Service Standard, and apply the standard to POTS, VoIP, and wireless services. For customer inquiries that fail either component of the Customer Service Standard, Staff proposes to assess a daily fine for each day of noncompliance.[374]

In summary, the proposed new Customer Service Standard would apply to POTS, VoIP, and wireless services,[375] as follows:

Response component

- Maintain the requirement of having live agents answer 80 percent of customer service calls within 60 seconds.[376]
- Add the requirement of having live agents answer 100 percent of customer service calls within five minutes, whenever requested by customers.[377]
- Provide a chat component on the carrier's webpage to reach those who cannot access voice services.[378]
- Provide a postal mail component for those who cannot access either voice or data services.[379]

Resolution component

[374] *Id.*, at 42.

[375] *Id.*, at 41.

[376] *Id.*

[377] *Id.*

[378] *Id.*, at 42.

[379] *Id.*

- Billing-related inquiries must be addressed and, if necessary, reconciled by the next billing cycle.[380]
- Outage-related inquiries are subject to POTS Outage Repair Standard, VoIP Outage Repair Standard, and Wireless Community Isolation Outage Repair Standard respectively.[381]

Enforcement and Penalties

For customer inquiries that fail either component of the Customer Service Standard, assess a daily fine for each day of noncompliance.[382]

- For customer inquiries, use the Customer Service Standard to determine performance and assess a penalty in the form of monies to the general fund.[383]
- Assess compliance of this standard at the company level.[384]
- Failure to achieve any of the requirements set forth in both the response and resolution components will result in a fine.[385]
- For each day of noncompliance, a daily fine is assessed.[386]
- The daily fine amount is the equivalent to the interest amount for late surcharge remittances.[387]

18.1. Positions of Parties

Parties disagree on whether the Commission should adopt the proposals and also offer revisions.

---

[380] *Id.*

[381] *Id.*

[382] *Id.*

[383] Staff Proposal, at 46.

[384] *Id.*

[385] *Id.*

[386] *Id.*

[387] Staff Proposal, at 47.

18.1.1. Response component

Joint Commenters support the proposal with the requirement that the webpage chat option be clarified to ensure that a customer is able to quickly chat with a live representative and not be forced to engage in an extensive chat with an automated system.[388]

AT&T asserts a standard mandating 100 percent compliance is arbitrary, fundamentally unreasonable, and inherently flawed, as it fails to account for the practical realities and variable differences of voice service customers, thereby setting an unattainable benchmark.[389] AT&T also states that proposed revised rules regarding answer time do not recognize exemptions for circumstances beyond the control of the carrier, including disasters or other events that may affect the carrier's call centers, such as if a call center is experiencing severe weather conditions (e.g., thunderstorms), a natural disaster, or an unforeseen emergency (e.g., like a building fire), where the call center may need to be evacuated.[390]

Verizon asserts the Staff Proposal identifies no evidence that wireless customers have a demonstrated problem with customer service answer times and that the proposed new standard would be difficult to implement, including that wireless providers would need to implement a process for addressing calls from California customers on their nationwide platforms.[391] Verizon also requests clarification regarding whether the proposed rules eliminate the current rule's allowance for answering by a live agent within 60 seconds after completing

---

[388] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 21.

[389] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 35.

[390] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 25-26.

[391] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 28-31.

an IVR or ARU system, arguing that if that is the case, the proposed rule may be difficult to impossible to implement.[392]

The Voice on the Net Coalition argues that the Commission does not have the authority to impose on nomadic interconnected VoIP providers the proposed Customer Service Standard, in particular the requirement of live agents answering 80 percent of customer service calls within 60 seconds and 100 percent of calls within five minutes.[393]

The Small LECs claim that most of the Small LEC carriers are not subject to the current standard, and there is no evidence that the Small LECs' Answer Time is deficient. The Small LECs argue the Staff Proposal does not justify the proposed elimination of the option to use average answer time data based on "[a] statistically valid sample of the answering interval," which would cause increased compliance costs.[394] The Small LECs also contend the proposed standard would impose significant costs and burdens on the Small LECs, including the installation of software upgrades and replacement or modifications of companies' current phone systems to comply with the new call tracking and reporting requirements, and the retention of additional staff or consultants, given that many of the Small LECs do not have 24-7 answering.[395] Thus, the Small

---

[392] *Id.*, at 43.

[393] Voice on the Net Coalition, Opening Comments on Staff Proposal, filed September 3, 2024, at 2. *See*, Vonage Holdings Corporation, Memorandum Opinion and Order, 19 FCC Rcd 22404 (2004) ("Vonage Order"). *See also*, See, Vonage Holdings Corp. v. Minnesota Pub. Utils. Comm'n, 290 F. Supp. 2d 993 (D. Minn. 2003), aff'd, 394 F.3d 568 (8th Cir. 2004) affirmed 394 F.3d 568 (8th Cir. 2004); Southwestern Bell Tel., L.P. v. Missouri Pub. Serv. Comm'n, 461 F. Supp. 2d 1055 (E.D. Mo. 2006), aff'd, 530 F.3d 676 (8th Cir. 2008); Minnesota Pub. Utils. Comm'n v. FCC, 483 F.3d 570, 580 (8th Cir. 2007); PAETEC Commc'ns, Inc. v. CommPartners, LLC, No. 08-Civ-0397 (JR), 2010 WL 1767193 (D.D.C. Feb. 18, 2010).

[394] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 13.

[395] *Id.*, at 11.

LECs assert the Commission should continue to maintain the current 10,000 access line reporting unit threshold for the Answer Time standard.

Frontier and the Small LECs contend the proposed deletion of the minimum standard reporting level relating to IVR, or ARU, systems, which appears to be motivated by concern that the current standard does not limit how many sets of IVR or ARU prompt options the customer may encounter prior to speaking with a live agent, is not justified and IVR and ARU can decrease labor costs.[396]

Frontier does not oppose the proposal that telephone corporations offer a chat component on the carrier's webpage to reach those who cannot access voice services and include a postal mail option, as Frontier already does so.[397] The Small LECs contend that requiring telephone corporations to offer a chat component on carriers' webpages to reach those who cannot access voice services would cause significant compliance costs for some of the Small LECs.[398]

The California Broadband & Video Association asserts the proposed answer time standard is overly stringent, vague and argues that the Staff Proposal does not reasonably explain or justify the proposed revisions. Among other issues California Broadband & Video Association identifies, the proposal does not reference IVR nor ARU systems that the existing Answer Time standard acknowledges. Additionally, the California Broadband & Video Association states that requiring live agents to answer 100 percent of all customer calls within five minutes does not account for the fact that providers may be faced with

[396] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 11. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 13.

[397] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 11.

[398] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 13.

unexpected surges in call volume during catastrophic or other unexpected events, regardless of the quality and robustness of customer care operations. At minimum, the California Broadband & Video Association opines that the answer time should be measured from the point in a call when a customer requests a live agent.[399] The California Broadband & Video Association proposes a new standard of 90 percent of calls answered by a live agent in five minutes, in addition to the existing 80 percent in 60 seconds standard. This new standard of 90 percent in five minutes allows for a reasonable margin of error but still adds to the existing standard, consistent with the Staff Proposal.[400]

The California Broadband & Video Association notes that the Staff Proposal deletes guidance that allows providers to use "a statistically valid sample of the answering interval [to be] taken to obtain the percentage of calls answered within 60 seconds." The California Broadband & Video Association asks that this guidance be retained because there needs to be some reasonable way to measure whether the standard is being met without counting every single call a provider receives in each month.[401]

18.1.2. Resolution Component

Verizon argues the proposed rule is unduly punitive, noting that the current rule imposes a fine on wireline carriers if they fail to meet the standard three consecutive months in a row, while the proposal appears to penalize for

[399] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 17-19.

[400] *Id.*, at 19

[401] *Id.*, at 18.

each "day of noncompliance" that a metric is not met, without any leniency for even a day's noncompliance.[402]

AT&T states that key terms regarding the proposal that "billing-related inquiries must be addressed and, if necessary, reconciled by the next billing cycle" are undefined.[403]

CTIA contends the Staff Proposal lacks sufficient information for wireless providers to know which customer service calls would be subject to the requirement and is unclear what action or outcome wireless providers would be required to achieve to comply with the rule. In particular, CTIA asserts it is unclear what it means to "resolve," "address," or "correct" a billing inquiry, whether and how these terms may differ from one another, and under what circumstances it would (and would not) be "necessary" to "reconcile" a billing inquiry.[404] Further, CTIA opines that the applicable deadline also is indefinite, as the requirement to resolve billing-related inquiries "by the next billing cycle," is unclear whether it means before the next bill is issued, which CTIA claims is unreasonable, and the term "billing cycle" has no obvious meaning in the context of prepaid service, where no "bills" are issued, and pay-as-you-go options—which are prevalent in the wireless marketplace—do not involve billing or payment in regular "cycles."[405]

Verizon also requests clarification regarding the proposed requirement to "resolve" billing-related inquiries by the "next billing cycle." Verizon asks if the definition of "resolve" means that the provider must respond to the customer's

---

[402] *Id.*, at 43.

[403] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 36-37.

[404] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 50-51.

[405] *Id.*, at 51.

billing inquiry, not that the provider has closed out the dispute, much less resolved an inquiry or dispute in favor of a customer.[406] Verizon further claims that requiring resolution by the next business cycle, as the proposed rule currently reads, may not be possible, if the dispute is raised a short time before the end of the billing cycle.[407] Noting some billing-related issues may not be reasonably resolved by "the next billing cycle," the California Broadband & Video Association recommends the Commission revise the proposal to have billing-related inquiries responded to within a reasonable time frame, or at minimum, within two billing cycles.[408] AT&T proposes three billing cycles.[409]

Frontier and the Small LECs assert that it is not always possible to resolve every inquiry by the next billing cycle, given that the term "resolve" is not defined and the carrier may consider an inquiry to be resolved even though the customer still disputes the charge.[410] For instance, even where a charge is authorized by the company's tariff, customers may still dispute the charge for financial or personal reasons or a customer may sign up for telephone service and place an application for California LifeLine with the Third Party Administrator (TPA), and it may take the TPA months to respond to the application depending on whether the customer properly filled out and completed the application. In that circumstance, the customer may call the carrier to state that they are eligible for LifeLine and want the discount reflected on their

[406] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 41-42.

[407] *Id.*, at 42.

[408] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 20.

[409] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 37.

[410] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 10. The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 12.

bill, but the carrier cannot provide the discount until the application is approved, in accordance with the rules governing the LifeLine program.[411]

18.1.3. Enforcement and Penalties

Frontier argues that the proposed base fine penalty amount "equivalent to the interest amount for late surcharge remittance "is unjustified and could result in excessive penalties for any failure to meet one of staff's proposed new five Customer Service Standard criteria, claiming that for carriers with many access lines, the base fine amount would be draconian and disproportional to the nature of the violation.[412] The Small LECs argue the penalties in Criteria (v) are duplicative of the outage penalties.[413]

The California Broadband & Video Association opposes any type of penalty for not meeting the proposed Customer Service Standard with respect to interconnected VoIP providers, asserting that the proposed daily fine amount for not meeting the standard -- the equivalent to the interest amount for late surcharge remittances -- is vague and the California Broadband & Video Association is unclear how the fine would be calculated. Asserting that there is no basis to adopt the proposal, the California Broadband & Video Association recommends that the Commission instead collect this new information for 24 months and then reconsider penalties if it identifies systemic compliance problems that need to be addressed.[414]

---

[411] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 12.

[412] Frontier, Opening Comments on Staff Proposal, filed September 3, 2024, at 9-10.

[413] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 14.

[414] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 21-22.

18.1.4. Miscellaneous

CTIA asserts the proposed rules are unnecessary, given that the Commission already "prescribes detailed rules related to resolution of billing disputes for telecommunications providers in GO 168 (Consumer Bill of Rights Governing Telecommunications Services)" and that any potential conflict between the next version of GO 133-D and GO 168 regarding billing issues would only lead to confusion.[415]

The Voice on the Net Coalition also contends the proposed standard is not practical for nomadic interconnected VoIP service, given its nomadic nature – as long as a caller has an internet connection, they can make a call anywhere, not from a fixed location, such as an address in California.[416]

The National Lifeline Association asks the Commission to exempt wireless carriers that are not Tier 1 Providers, as the association is concerned about the impact of the new requirement on smaller wireless service providers, including MVNOs,[417] due to less resources, including employees to staff the requirement.[418] Alternatively, the National Lifeline Association asks the Commission to retain chronic failure status for wireless service providers, especially smaller wireless service providers, to avoid punishing wireless providers for single instances of non-compliance while they work through new regulatory obligations.[419] Noting

---

[415] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 51.

[416] Voice on the Net Coalition, Opening Comments on Staff Proposal, filed September 3, 2024, at 3-4.

[417] A mobile virtual network operator, or MVNO, is a wireless reseller, meaning that it provides wireless service while relying on the network of another provider, such as AT&T, Verizon, or T-Mobile.

[418] National Lifeline Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 1-8.

[419] *Id.*, at 10.

the complexities of delivering VoIP service, including the likely need to rely on facilities of multiple providers, Velocity Communications, Inc. and ShastaBeam request the Commission clarify that any VoIP rules adopted apply only to the entity that provides the facility or service, meaning that service quality issues associated with physical facilities apply only to the facilities-based provider and customer-facing issues such as installation, customer service, etc. would apply only to resellers.[420] Noting the administrative burden of the proposed rules, Velocity Communications, Inc. and ShastaBeam also request the Commission exempt small, non-CLEC VoIP providers with fewer than 1,000 VoIP customers.[421]

18.2. Discussion

During the PPHs, and in comments submitted to the Docket Card, numerous customers commented on their frustrations with receiving prompt responses to their billing disputes and other service inquiries. Given that customers rely on more than just POTS for their voice service needs, the Commission's customer service standards should apply to all POTS and fixed interconnected VoIP voice services. This will incent improved resolution times for customers. The Commission revises and adopts the proposed rules in the manner described below.

Adopted response requirements will be consistent with federal standards in CFR § 76.309(c)(i) and (ii) and apply to POTS~~,~~ and fixed interconnected VoIP, ~~and wireless~~ voice service providers that report under GO 133. CFR § 76.309(c)(i) requires a local, toll-free or collect call telephone access line which will be

[420] Velocity Communications, Inc. and ShastaBeam, Reply Comments on Staff Proposal, filed September 17, 2024, at 2-3.

[421] *Id.*, at 4-5.

available to its subscribers 24 hours a day, seven days a week. Trained company representatives must be available to respond to customer telephone inquiries, subject to the exemptions discussed in Section 12. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed sixty (60) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than eighty (80) percent of the time under normal operating conditions, measured on a quarterly basis.

It will be important to collect additional information to assess the answer time for the up to 20 percent of calls that are not answered with the required answer times. In a later Phase of this proceeding we will collect data and determine whether further standards are necessary, such as the California Broadband & Video Association's suggestion of a requirement that ninety (90) percent of calls be answered within five (5) minutes, and additional standards that could address any failure to answer, transfer and addresses issues within the allowable time under the General Order.

For calls that exceed 60 seconds when the connection is made, a voicemail option to leave callback numbers must be provided and a customer representative must call back within 24 hours. For customers who prefer digital written communication, an inquiry option to leave contact emails and inquiry must be provided and a customer representative must respond within 24 hours. For customers who prefer manual written communication, a postal mail option

to leave contact information and inquiry must be provided. Chat bots and other automated respond systems may provide general information, but do not replace customer representative response.

The Commission adopts modified resolution requirements in response to comments that identified implementation challenges of certain aspects of the Staff Proposal. In response to AT&T, billing-related inquiries must be addressed and, if necessary, reconciled within 90 days, instead of the 30 days in the Staff Proposal. Additionally, the proposed outage-related inquiries are subject to the POTS ~~Outage Repair Standard,~~and VoIP Outage Repair ~~Standard, and Wireless Community Isolation Outage Repair Standard respectively~~Standards.

The standards will only apply to POTS carriers and fixed interconnected VoIP carriers. In response to comments and suggestions made by parties, this decision defers consideration of answer time standards to nationwide wireless carriers to a later phase of this proceeding.

In response to the comments of the California Broadband & Video Association, we revise how the Customer Service Standard will be enforced and how the fine will be calculated.

Fine = Number of access lines x $5 x 10 percent x Number of days noncompliance / 365

This approach is a less complicated calculation than suggested in the Staff Proposal.

In response to the Voice on the Net Coalition, we clarify that the answer time standard applies to fixed, not nomadic, interconnected VoIP providers.

CTIA does not identify which of the proposed rules conflict with GO 168 and our review does not identify a conflict.

In response to comments made to the proposed decision, we clarify that telephone corporations may give their customers an option to use a call-back service.[422] If a customer chooses to use the call-back service, and if the telephone corporation calls back that customer within 24 hours, that call shall not count against achievement of the answer time standard.

19. Miscellaneous Reporting Requirements

General Order 133-D contains several reporting requirements for POTS, VoIP, and wireless services. Staff proposes that telephone corporations continue to provide copies of the Federal Communications Commission's required reports to the Commission, such as National Outage Reporting System reports. In addition, Staff proposes that telephone corporations continue adhering to all current reporting requirements, including Major Service Interruption reports. Staff also proposes to require customer notification of aggregate annual fine amounts paid by telephone corporations.[423]

For Cal OES community isolation outage reports, Staff proposes concurrent reporting of Cal OES community isolation outage reports for all service types.[424]

Staff proposes a new Annual Customer Notification, whereby carriers provide an annual report to customers that details their performance from the previous year against the Commission's voice service standards.[425]

---

[422] CTIA, Comments of CTIA on the Proposed Decision, at 3-4.

[423] Staff Proposal, at 47.

[424] Staff Proposal, at 13, 36.

[425] *Id.*, at 47-48.

Staff proposes to eliminate the ETC Outage Report requirement, noting that all pertinent information is already included in other reporting requirements.[426]

19.1. Party Positions

Cal Advocates and Joint Commenters support adopting the proposals listed above and the proposed requirement of concurrent Cal OES community isolation reports.[427]

Verizon claims the proposal that wireless providers notify customers annually of their prior year's outage history would not provide meaningful information.[428] Verizon argues the Commission should not adopt the new annual customer disclosure rule because the outage reports are highly confidential.[429] The California Broadband & Video Association also disagrees with the application of this requirement.[430] AT&T also opposes this proposal.[431]

The Small LECs contend that the Staff Proposal fails to justify additional reporting requirements, including the proposed new granular Customer Notification reporting and that additional reporting requirements would impose unnecessary costs and burdens on the Small LECs, including programming

---

[426] June 2024 Ruling, at 8.

[427] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 15, 38, and 41-42.

[428] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 4.

[429] *Id*.

[430] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, 24-25.

[431] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 40-41.

updates, and interfere with their limited staffing and resources needed to maintain and advance their networks and ensure high service quality.[432]

The California Broadband & Video Association does not support Staff asking additional information related to Cal OES community isolation outage notifications, in particular, the "underlying data" up to the individual access line level. The California Broadband & Video Association notes that Staff already have access to Cal OES outage report data through the Cal OES portal, but it is not clear that providers collect underlying individual access line data for Cal OES reports in the first instance.[433]

The California Broadband & Video Association states that revising Section 3.2 to eliminate the use of a standardized template thus allowing Staff to "determine all reporting requirements" and Section 5.2(c)(ii) which allows that all "Reports shall be filed with the CD in a manner of CD's choosing" are inappropriate delegations of authority to Staff.[434]

The California Broadband & Video Association asks the Commission to not revise record retention requirements, which would require providers to keep their records for ten years, up from the current three years, arguing the record does not identify any issues with the length of record retention and there is no practical reason for the increase.[435]

The California Broadband & Video Association recommends removing the requirement that a telephone corporation that fails to meet the standards file a

[432] The Small LECs, Opening Comments on Staff Proposal, filed September 3, 2024, at 22.

[433] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 22.

[434] *Id.*, at 22-24.

[435] *Id.*, at 25-26.

Tier 2 Advice Letter annually showing the months it did not meet the standards and calculating the applicable fine, asserting that other proposed modifications, including the customer credits, eliminate the need to further calculate fines and duplicate the quarterly reporting that would otherwise be required.[436]

AT&T argues that the proposed requirement that wireless carriers must ensure their customers have the proper equipment during a technology transition is unnecessary, asserting this is already done.[437]

Joint Commenters recommend that the Commission complement its NORS requirement by requiring telephone corporations to submit federal Disaster Information Reporting System (DIRS) reports.[438]

19.2. Discussion

Based on feedback from parties, the Commission adopts the following reporting requirements for POTS, fixed interconnected VoIP, and nationwide wireless service providers:

- The FCC's Network Outage Reporting System reporting requirements.
- The Cal OES's community isolation outage notification requirements.

After consideration of feedback from Parties, the Commission elects not to adopt the Staff Proposal's Customer Notification requirement, as it appears customers already have this information. In light of the Commission's new approach to using Corrective Action Plans to improve service quality performance, especially to reduce outages to a more acceptable level, the

---

[436] The California Broadband & Video Association, Opening Comments on Staff Proposal, filed September 3, 2024, at 26.

[437] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 39-40.

[438] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 38-41.

Commission adopts a five-year retention of records requirement for all documentation related to General Order 133.

20. Wireless Coverage Maps

GO 133-D Section 5 requires wireless telephone corporations to provide coverage maps on their websites and at retail locations. The carriers also must disclose equipment limitations so a customer understands what they "generally may expect" to receive adequate signal strength to place and receive calls when outdoors.[439]

Asserting the current requirements lack key specifics, since the term "generally may expect" service outdoors does not necessarily mean one is able to place and receive calls, Staff proposes that wireless carriers create and maintain wireless coverage maps with a customer-facing interface that has the capability to verify coverage at the address or location level with equipment requirements.[440]

20.1. Positions of Parties

RCRC supports requiring a customer-facing interface to verify wireless coverage maps, noting that it is not uncommon for voice and broadband service coverage maps to be inaccurate.[441] Cal Advocates recommends requiring providers of wireless services to verify the availability of their services at the address level using the updated version of the FCC Broadband Serviceable Location Fabric (BSLF), and if customer-reported information shows that services are actually not available at a certain address, a fine should be assessed and the

[439] Staff Proposal, at 31.

[440] *Id*.

[441] RCRC, Opening Comments on Staff Proposal, filed September 3, 2024, at 6.

customer refunded for the wireless services paid for but not received.[442] Joint Commenters assert that requiring more accurate wireless maps would greatly benefit consumers, and is consistent with the Pub. Util. Section 281.6 requirement that Commission broadband maps incorporate a customer-facing interface that has the capability to verify coverage at the address or location level and allow customers to self-report actual coverage and data speeds.[443]

Verizon states that "the proposed requirement that coverage maps are capable of 'verifying coverage at exact address'… requires a level of certainty as to service availability at an address that is reasonable in the wireline context but unreasonable for wireless services."[444] CTIA agrees, adding that it is not possible to guarantee an exact coverage level at a specific location at all times, since coverage at a given location will be affected at various times by factors such as sunspots and solar wind activity, and changes in tree foliage, among others.[445] CTIA also recommends that the Commission rely on maps using FCC's mobile Broadband Data Collection.[446] AT&T recommends that the Commission revise this rule so that it reads: "Wireless carriers shall provide the latest coverage maps on an annual basis to CD capable of verifying expected coverage at exact address, preferably using Geographical Information System shapefiles."[447]

CTIA claims the requirement that wireless providers' coverage maps "include a clear disclosure of equipment constraints" is unclear and undefined,

---

[442] Cal Advocates, Opening Comments on Staff Proposal, filed September 3, 2024, at 14.

[443] Joint Commenters, Opening Comments on Staff Proposal, filed September 3, 2024, at 37.

[444] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 4.

[445] CTIA, Opening Comments on Staff Proposal, filed September 3, 2024, at 52.

[446] *Id.*, at 53.

[447] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 38.

arguing that it "would not be feasible for wireless providers to offer different coverage maps for every device that a consumer might use on the network, nor is it possible for a wireless provider to anticipate the potential limitations of any specific wireless device—particularly given that devices' capabilities may be affected by the passage of time (which may weaken the maximum power of the battery) or the customer's own actions, such as damage to an antenna due to a dropped phone or the use of a poorly-designed phone case."[448] AT&T adds the following:

> AT&T's online mapping tool allows customers to input an address to view an approximation of outdoor coverage by technology (i.e., 5G+, 5G, 4G, LTE coverage, and partner coverage). In the AT&T Consumer Service Agreement, which wireless customers agree to at the point-of-sale, and which is publicly available online, AT&T notifies potential customers that it utilizes different network technologies on its wireless network and not all devices work on all wireless technologies. AT&T and other wireless service providers sell hundreds of different handsets/devices from third-party manufacturers. And new handsets are constantly being introduced into the marketplace and offered for sale with new and updated features.
>
> Customers can consult the equipment manufacturers' publicly available information regarding which technologies their phones support. Additionally, AT&T also provides a list of devices on its website that work on its network. No new rules, in turn, are required or necessary."[449]

[448] *Id.*, at 52-53.

[449] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 39.

20.2. Discussion

It is reasonable to expect that telecommunications coverage maps are accurate. However, Verizon's candor that it (and presumably other wireless carriers) cannot meet the proposed granularity requirements of providing maps due to technological limitations means the Commission would be collecting mapping data that is not useful were it to adopt the Staff Proposal on this point. CTIA's recommendation that the Commission instead rely on maps using the FCC's mobile Broadband Data Collection likewise would mean relying on inaccurate maps or inaccurate mapping data, since the Commission has previously challenged almost ten million locations in California.[450] The fact that the nationwide wireless providers already have coverage maps obviates the need for this requirement, until wireless providers improve their maps. Given the noted inaccuracies that may be included on these maps, it is the Commission's expectation that wireless providers will continue to work on improving their maps. Thus, the Commission revises the GO to exclude this requirement.

21. Implementation

AT&T and Verizon request the Commission delay the implementation or enforcement of the proposed rules to allow carriers the opportunity to take the appropriate administrative and logistical steps to carry out the Commission's orders. Verizon requests a twelve-month delay.[451] AT&T did not request a time

[450] *See*, D.24-05-029, *Decision Approving Volume One Of The Broadband Equity, Access, And Deployment Programs Rules* (R.23-02-016), adopted May May 9, 2024, at 24-25: "When rebutting the FCC's National Broadband Map, released on November 18, 2022, the Commission challenged 9.9 million locations, with 88 percent of those locations purported to be served by wireless internet service providers, and one provider's challenged locations accounting for nearly 66 percent of the total."

[451] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 51.

period.[452] In light of these requests, enforcement of General Order 133-E will begin on July 1, 2026. Refer to General Order 133-E Section 3 Reporting Requirements for details of quarterly and annual submission to the Commission.

In response to comments from Frontier, Consolidated, and the California Broadband & Video Association, we clarify that through ~~June 30~~December 31, 2026, carriers subject to GO 133-D will remain subject to GO 133-D, including all reporting and fine enforcement activities. ~~GO 133-D final deliverables are as follows:~~

~~• On February 14, 2026, Q4 2025 GO 133-D reports are due;~~

~~• On February 15, 2026, Tier 2 Advice Letters to tabulate fines for 2025 performance are due;~~

~~• On May 15, 2026, Q1 2026 GO 133-D reports are due;~~

~~• On August 15, 2026, Q2 2026 GO 133-D reports are due; and~~

~~• On August 15, 2026, Tier 2 Advice Letters to tabulate fines for 2026 performance (Q1 and Q2 only) are due.~~

22. ARMIS Reporting

In 1987, the FCC began collecting financial and operational data from the largest local exchange carriers (LEC).[453] The FCC subsequently required additional information regarding: a) service quality, b) network infrastructure, c) statistical data, and d) video dial tone investment, expense, and revenue data.[454] The FCC acquired this information using ARMIS. By 2013, the FCC

[452] AT&T, Opening Comments on Staff Proposal, filed September 3, 2024, at 41.

[453] *See,* https://www.fcc.gov/economics-analytics/industry-analysis-division/armis/armis-instructions-data (Last visited March 21, 2025).

[454] *Id.*

stopped requiring the provision of ARMIS reports if the LEC satisfied the conditions for regulatory forbearance.[455]

In 2008, the Commission required URF ILECs to continue to file California-specific information from ARMIS reports even if the FCC no longer required filing of these reports.[456] The Commission concluded the California-specific information within these ARMIS reports assisted with achieving the Commission's objectives under Pub. Util. Code § 709(a). When the Commission closed R.05-04-005 in late 2009, it explicitly declined to consider whether the continued submission of certain ARMIS reports remained necessary.[457] Nonetheless, the Commission specified the appropriate procedural vehicles by which a party could prompt the Commission to reconsider the necessity of these ARMIS reports.[458]

In 2021, AT&T filed a petition for modification of D.08-09-015, which if approved, would relieve AT&T of the need to submit ARMIS Reports 43-01, 43-02, and 43-03.[459] AT&T asserts these three ARMIS reports as unjustifiably time-consuming to produce and questions the usefulness of the reports.[460]

The Scoping Memo asks if there are reporting requirements or metrics that the Commission should no longer mandate. The August Ruling asks a number of

---

[455] *See,* https://www.fcc.gov/general/significant-changes-armis-reporting-requirements (Last visited March 21, 2025).

[456] *See,* D.08-09-015, at Ordering Paragraph 5.

[457] *See*, D.09-11-015, at Finding of Fact 6.

[458] *See,* D.08-09-015.

[459] Petition of Pacific Bell Telephone Company dba AT&T California for Modification of Decision 08-09-015, filed January 27, 2021.

[460] *Id*., at 1.

questions about the need for the Commission to continue collecting certain ARMIS reports.

This decision does not address this issue. This issue will be addressed in Phase 2 of this proceeding.

23. Addressing Due Process Concerns, Legal Arguments, and Other Miscellaneous Allegations and Assertions

Several parties raise due process concerns, as well as other allegations regarding fairness and assertions about jurisdiction. In this section we address those issues.

23.1. Misstatements of Law from CTIA, AT&T and Verizon Regarding the Commission's Jurisdiction Over Wireless Service

CTIA, AT&T, and Verizon have made the same arguments in this proceeding -- that the Commission is preempted or otherwise prohibited by statute or caselaw -- in nearly every proceeding where the Commission has attempted to adopt and implement consumer protection measures for wireless service.[461] As in every other case, the arguments regarding preemption are without merit. More recently, the Commission dismissed these claims in D.21-10-015, when it denied an application for rehearing of D.20-07-011, which adopted the Commission's wireless resiliency rules, including the requirement carriers in Tier 2 and 3 HFTDs are required to provide 72 hours of backup power even

[461] *See, e.g.,* I.11-06-009 (T-Mobile/AT&T proposed merger); A.18-07-011, A.18-07-012 (T-Mobile/Sprint proposed merger,); D.04-09-062, D.04-12-058, *Pacific Bell Wireless (Cingular) v CPUC,* 140 CA4th 718 (2005) (jurisdiction over AT&T Wireless' corporate predecessor, Cingular); D.12-02-032 (jurisdiction over a mobile reseller, TracFone); D.10-10-034 (Cramming Reporting Decision); D.20-09-012, Modifying and Denying Rehearing of D.19-08-025 (adopting an emergency disaster relief program for customers of communications service providers in this proceeding, R.18-03-011).

when there is no declared state of emergency. Despite having already addressed these arguments, we provide another explanation rebutting these misstatements of law.

In 1993, Congress passed the Omnibus Budget Reconciliation Act of 1993 (Budget Act), which amended 47 USC Section 332(c)(3)(A) as follows:

> no State or local government shall have any authority to regulate the entries of or the rates charged by any commercial mobile service or any private mobile service, except this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile service.[462]

On its face, 47 USC Section 332(c)(A)(3) preempts only state attempts to prevent new mobile service carriers from entering the market or to regulate rates charged for wireless services; any other state regulation of mobile services providers remain unaffected.[463] Whether a particular regulation falls under the meaning of "market entry," "rates," or "other terms and conditions" is fact-specific, requiring a case-by-case determination.[464] The rules adopted here are consumer protection and public safety requirements that fall under "other terms

---

[462] Codified at 47 USC Section 332(c)(3)(A) (emphasis added). The Budget Act was part of a national redistribution of regulatory authority which continued with the 1996 Telecommunications Act and resulted in what has been referred to as a system of "cooperative federalism." *See, e.g., Core Communications, Inc. v. Verizon Pennsylvania, Inc.* 493 F.3d 333, 335 (3d Cir. 2007) ("[T]he Act provides that various responsibilities are to be divided between the state and federal governments, making it 'an exercise in what has been termed cooperative federalism.' (Internal citation omitted) . . . The 'intended effect' of such regime was to 'leave[e] state commissions free, where warranted, to reflect the policy choices made by their states'").

[463] *Centennial P.R. License Corp. v. Telecomms. Regulatory Bd.*, 634 F.3d 17 (1st Cir.), cert. denied 565 U.S. 826 132 S.Ct. 119, 181 Ed. 2d 42 (2011). *See also* Joint Consumers Response to App. for Rehearing at 7.

[464] *Telesaurus VPC, LLC v Power* (9th Cir., 2010) 623 F.3d 998, 1007 ("the FCC rejected this per se approach, adopting instead a case-by-case analysis for preemption of state tort actions"); *Shroyer v AT&T* ("the FCC rejected this per se [preemption] argument in *In re Wireless Consumers Alliance*, and so do we.")

and conditions of commercial mobile service" pursuant to 47 USC Section 332(c)(3)(A), and therefore, they are not subject to preemption.

Although states may not regulate the entry of or rates charged by wireless providers, not all matters that may indirectly affect wireless providers' rates constitute rate regulation contemplated by 47 USC Section 332. The scope of 47 USC Section 332's preemptive language is limited to regulations that directly and explicitly control rates, prevent market entry, or require a determination of the reasonableness of rates.[465] The Commission still retains the clear authority to regulate "other terms and conditions of service."

To support an express preemption argument, CTIA must cite an express Congressional intention to prohibit states from regulating wireless providers where such regulation might be necessary to safeguard the health and safety of their populations.[466] CTIA did not do so. Nowhere has Congress expressly stated or clearly manifested any intention to prohibit all state public safety regulations that apply to wireless providers.

As we stated in D.21-10-015 and D.20-07-011, the legislative history of 47 USC Section 332(c)(3)(A) indicates what Congress meant by the language "other terms and conditions" (also referred to as the "savings clause"), and reemphasizes the role Congress saw for the States:

> It is the intent of the Committee that the State still will be able to regulate the terms and conditions of these

---

[465] *Spielholz v. Superior Court* (2001) 86 Cal. App. 4th 1366; *Fedor v. Cingular Wireless* (7th Cir. 2004) 355 F.3d 1069, 1074. (*Phillips,* 2004 U.S. Dist. LEXIS 14544 at *24-25; *see also, Brown v. Washington/Baltimore Cellular, Inc.* (D. Md. 2000) 109 F. Supp. 2d 421, 423; *Iowa v. US Cellular Corp*. (S.D. Iowa 2000) 2000 U.S. Dist. LEXIS 21656, *5 (*US Cellular*).)

[466] *Napier v Atlantic Coast Line,* 272 US 605, 611 (1926) (Justice Brandeis stating: "[t]he intention of Congress to exclude States from exerting their police power must be clearly manifested.").

> services [CMRS]. By "terms and conditions" the Committee intends to include such matters as customer billing information and packaging and billing disputes and other such consumer protection matters; facility siting issues (e.g. zoning); transfers of control; bundling of services and equipment; and the requirement that carriers make capacity available on a wholesale basis and such other matters as fall within the State's lawful authority. This list is intended to be illustrative only and not meant to preclude other matters generally understood to fall under "terms and conditions."[467]

The FCC confirmed our jurisdiction over "other terms and conditions" when it stated that it anticipated the Commission would continue to conduct appropriate complaint proceedings and to monitor the structure, conduct, and performance of wireless providers.[468]

CTIA, AT&T, and Verizon ignore the many cases that recognize the consumer protection interests reserved to the States pursuant to 47 USC Section 332(c)(3)(A).[469] We have successfully asserted jurisdiction over "other terms and

---

[467] H.R. Report No. 103-111, 103d Con. 1st Sess. (1993), at 251, reprinted in 1993 U.S.C.C.A.N. 378, 588 (emphasis added).

[468] The FCC stated that the "CPUC retains whatever authority it possesses under state law to monitor the structure, conduct, and performance of CMRS providers in that state." See May 19, 1995 Report and Order *In re Petition of the People of the State of California … to Retain Regulatory Authority over Intrastate Cellular Service Rates,* 10 FCC Record 7486. Moreover, the Federal Communications Act contains "savings clauses" (described by the Court in *Farina v Nokia, infra*) and discussed further below, which are "fundamentally incompatible with complete field preemption; if Congress intended to preempt the entire field . . . there would be nothing . . . to 'save,' and the provision would be mere surplusage." (*Farina v. Nokia Inc* (3d Cir. 2010) 625 F.3d 97, 117 (3d Cir. 2010) 121-22).

[469] *See, e.g., Ting v. AT&T Corp.* (9th Cir. 2003) 319 F.3d 1126, *cert. denied, AT&T Corp. v. Ting* (2003) 124 S.Ct. 53.); *Spielholz v. Superior Court* (2001) 86 Cal.App.4th 1366; *Fedor v. Cingular Wireless,* (7th Cir. 2004) 35 F.3d 1069; *Phillips v. AT&T Wireless* (S.D. Iowa July

Footnote continued on next page.

conditions" of wireless service.[470] CTIA, AT&T, and Verizon also disregard *Pacific Bell Wireless (Cingular) v CPUC,* 140 CA4th 718 (2005), the *Cingular* case. In *Cingular*, the California Court of Appeal upheld the Commission's assertion of jurisdiction in a case relying on the "other terms and conditions" language of 47 USC Section 332(c)(3)(A), where we penalized a wireless carrier for providing "unjust and unreasonable service."[471] CTIA, AT&T, and Verizon ignore the clear legislative intent of what falls under the rubric of "other terms and conditions" and decades of caselaw supporting this legislative intent. Instead, by relying on the *Bastien* case, CTIA, AT&T, and Verizon erroneously contend that our interpretation of 47 USC Section 332(c)(3)(A) is too narrow.

29, 2004) 2004 U.S. Dist. LEXIS 14544); *Brown v. Washington/Baltimore Cellular, Inc.* (D. Md. 2000) 109 F. Supp. 2d 421, 423; *Iowa v. US Cellular Corp.* (S.D. Iowa 2000) 2000 U.S. Dist. LEXIS 21656; *Communications Telesystems Int'l v. Calif. Pub. Util. Comm'n* (9th Cir. 1999) 196 F.3d 1011.

[470] For example, we have reviewed merger agreements between wireless carriers pursuant to Public Utilities Code Sections 851-857 (T-Mobile/AT&T proposed merger, I.11-06-009; T-Mobile/Sprint proposed merger, A.18-07-011, A.18-07-012); enforced consumer protection measures against wireless carriers in the Consumer Protection Initiative Decision (D.06-08-030) and Cramming Reporting Decision (D.10-10-034), and applied outage reporting requirements to wireless carriers (D.16-08-021).

[471] We issued D.04-09-062, concluding an investigation into the sale of cellular telephone equipment and Early Termination Fee (ETF) practices of Cingular Wireless (Cingular). There, the CPUC determined that Cingular's ETF policy "constituted an unjust and unreasonable rule and resulted in inadequate, unjust, and unreasonable service in violation of both Pub. Util. Code Section 451" and a prior Commission decision, D.95-04-028 and ordered Cingular to pay customer reparations and a penalty. (D.04-12-058 at 1.) In 2006, the Court of Appeal upheld our assertion of jurisdiction over Cingular Wireless and denied Cingular's Petition for Writ of Review. (*Pacific Bell Wireless (Cingular) v CPUC,* 140 CA4th 718 (2005). The California Supreme Court and U.S. Supreme Court summarily denied Cingular's ensuing petitions for review.

In *Bastien*, the plaintiff filed a lawsuit challenging AT&T's rates and an FCC-mandated radio tower build-out plan.[472] The Seventh Circuit rejected plaintiff's consumer class action because the plaintiff explicitly requested that AT&T build out more cell towers, which conflicted with a specific FCC market buildout plan for that area.[473] There is no FCC approved plan for California at issue with regard to rules adopted by this decision. Furthermore, while the Seventh Circuit stated in *Bastien* that states are preempted from regulating rates and market entry for wireless service, the Court also found that "the savings clause continues to allow claims that do not touch upon the areas of rates and market entry."[474]

Service quality rules for wireless service are not preempted on the grounds that they conflict with federal policy.[475] The federal policy CTIA refers to is the choice by the FCC to not adopt outage rules similar to those the Commission adopts in this decision. There is no specific federal objective to prevent or frustrate, and therefore, conflict preemption does not apply. Furthermore, conflict preemption analysis must be conducted on a case-by-case basis and is dependent on the specific facts of the case.[476] CTIA did not perform a fact-specific analysis of their conflict preemption claims.

---

[472] *Bastien*, 205 F.3d at 989.

[473] *Id*.

[474] *Id.* at 987. *See also,* Joint Consumers Response to App. for Rehearing at 8.

[475] With regard to field or conflict preemption, there remains "a strong presumption against preemption when the federal government regulates in areas traditionally left to the states." (*Pinney v Nokia, Inc.* (4th Cir. 2005), 402 F3d 430, 457).

[476] *Telesaurus VPC, LLC v. Power* (9the Cir., 2010) 623 F.3d 998, 1007.

CTIA's accusation that, had it adopted proposed rules for wireless service, the Commission would have been acting in an arbitrary and capricious manner is unsupported. In essence, CTIA's argument is that because the Commission was not persuaded by CTIA's argument regarding the state of competition in California, the Commission is abusing its discretion. The process to arrive at this decision was a deliberate, three-year effort, and the record contains hard data from multiple sources corroborated with the experiences of many Californians. Parties were provided multiple opportunities to comment on various data sets and other information, present at a workshop and otherwise contribute to the formation of the Staff Proposal, as well as to comment on the Staff Proposal. Parties also may respond to any public comment submitted in a Docket Card of a proceeding.[477] The record clearly shows that while CTIA and certain other industry parties have recycled arguments that market forces are the best approach to address service quality, hard data and other information demonstrate a dramatic increase in the number of service outages, while under those same market forces. The main identified solution in this decision that CTIA takes issue with focuses on a well-defined problem (outages and service restoration) and involved the input of the industry on how to manage this problem, and this decision adopts modified rules responsive to comments by the California Broadband & Video Association, Verizon, and AT&T. All parties had several opportunities to contribute to the record in a substantive and constructive manner. After consideration of the comments filed, the decision also defers the issue of wireless outages and penalties for wireless providers as to the

[477] Rule 1.18(c)

area of outages to Phase 2 of this proceeding in order to further build the record prior to making a final determination.

23.2. AT&T's Claim that the Network Exam Reports Constitute Hearsay

AT&T asserts that the Network Exam Reports discussed in Section 6 constitute hearsay[478] and therefore the Commission cannot use them as a basis for findings necessary to adopt proposed new rules or modify existing ones.[479] AT&T also opines that the Network Reports cannot be admitted into the record of this proceeding because the Commission consultant that prepared the Network Exam Reports is not a party to this proceeding, no evidentiary hearing was scheduled, no party is sponsoring the Network Report, and no witnesses will testify to the contents of the Network Report.[480]

The Commission relies on Staff reports on a regular basis,[481] without the requirement of cross examination of Staff at an evidentiary hearing. For these purposes, a consultant is an extension of Staff, since the consultant reports to Staff and the work was reviewed by Staff. In other words, the Network Exam Reports are Staff Reports, not reports sponsored by an expert witness retained by a specific party. The normal process we follow in a rulemaking proceeding is that

---

[478] AT&T uses the definition of hearsay in Cal. Evid. Code Section 1200(a): "evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated."

[479] AT&T, Opening Comments on Administrative Law Judge Ruling Requesting Comments on Network Examination and ARMIS Report, filed December 21, 2022, at 36-39.

[480] *Id.*, at 37.

[481] Rule 7.5 (a)(1) of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure requires for quasi-legislative proceedings an assigned Commissioner's ruling or an industry division staff report setting forth recommendations on how to resolve the issues identified in the scoping memo.

the Commission provides parties with the opportunity to comment on the information presented,[482] which happened in this case.

Furthermore, even AT&T acknowledges the Commission may consider hearsay in its decision-making process, if it is corroborated.[483] In this proceeding, the Network Exam Reports are but some of the evidence and information in the record. As discussed at length, the record includes hard data from several sources and experiences from telecommunications services customers, including those of AT&T, in addition to the Network Exam Reports. Thus, the Commission may rely upon this information to adopt the rules contained in this decision, though the Commission did not rely on the Network Exam Reports for its determination to institute the new service quality obligations on VoIP and

---

[482] In other instances, AT&T has argued this approach is the standard process. *See*, Motion of AT&T, CTIA, Sprint, T-Mobile, and Verizon Wireless to Strike Safety Principles for Communications Service Providers from the Record, *Order Instituting Rulemaking Regarding Emergency Disaster Relief Program* (R. 18-03-011), filed May 6, 2019. These parties, including AT&T, argue that due process was not satisfied in R. 18-03-011 because these moving parties were not given an opportunity to be heard in response to the inclusion of the Staff Paper in the record. These parties further argue that "When other staff papers have been used in prior Commission proceedings, interested parties have typically been given an opportunity to comment on or otherwise respond to the staff paper." It is not clear why AT&T argues differently here.

[483] AT&T, Opening Comments on Administrative Law Judge Ruling Requesting Comments on Network Examination and ARMIS Report, filed December 21, 2022, at 37. AT&T cites to Cal. Pub. Util. Code Section 1701(a) and *Utility Reform Network* v. *Pub. Util. Comm.*, 223 Cal. App. 4th 945, 962 (2014) (citing *Daniels* v. *Dept. of Motor Vehicles*, 33 Cal.3d 532, 537-38, n. 3 (1983); *In re Luceno L*, 22 Cal.4th 1227, 1244 (2000); *Walker* v. *City of Gabrel*, 20 Cal.2d 879, 881 (1942) ("There must be substantial evidence to support … a board's ruling, and hearsay, unless specially permitted by statute, is not substantial evidence to that end")). Commission decisions following *Utility Reform Network* continue to embrace its rule and reasoning, and consequently to require more than uncorroborated hearsay to support Commission findings. *E.g.*, *Dr. Any Gelfand, et al.* v. *Southern California Edison Co.*, D.18-08-005, 2018 WL 4037381, *3 (Cal. P.U.C. Aug. 9, 2018) (Commission concluded it could not find solar panels were not an alternate cause of alleged faulty meter readings, where only evidence that panels were properly installed was a letter from non-party that had installed plaintiff's solar panels).

wireless services because the Network Exam Reports only address the networks of AT&T and Frontier.

23.3. Assertions About Not Receiving the Information for Network Exam Reports in a Timely Manner

AT&T, Frontier, and AT&T's expert witness all contend they did not receive information related to the Network Exam Reports in a timely manner.[484]

The Commission published the Network Exam Phase 2 Report in July 2021 and adopted the Order Instituting Rulemaking for this proceeding on March 17, 2022. However, the two carriers waited roughly five months after issuance of the OIR before making their first information requests. The Scoping Memo for this proceeding was issued on July 22, 2022, yet both carriers still waited to request the information. AT&T's first informal request came on August 9, 2022, while Frontier requested the information on September 1, 2022.[485] In their first requests, both carriers asked Staff to release information the Commission has designated as confidential. Staff cannot release confidential information without Commission authorization. As already noted, both carriers made their joint subpoena request of the Assigned ALJ on September 20, 2022. This request also was not properly made and granting it would have led to a situation where all other parties in this proceeding would not have access to this information.

[484] AT&T, Opening Comments on Administrative Law Judge Ruling Requesting Comments on Network Examination and ARMIS Report, filed December 21, 2022, at 39-40. Aron Declaration (Attachment A to AT&T's Opening Comments) at 51. Frontier, Opening Comments on Administrative Law Judge Ruling Requesting Comments on Network Examination and ARMIS Report, filed December 21, 2022, at 1.

[485] Response of Frontier to Assigned ALJ Ruling Requesting Additional Information, filed October 14, 2022, at 2-3.

On October 6, 2022, the Assigned ALJ stayed the comment deadlines to the August Ruling in order to provide all parties that signed nondisclosure agreements with the requested information. On November 21, 2022, individuals that signed the nondisclosure agreements began to receive access to roughly 1,900 files. Despite the late timing of the requests, the Assigned ALJ delayed the filing of opening comments from October 3, 2022, to December 21, 2022.

The delay in the carriers requesting unredacted copies of the Network Exam Reports and accompanying information is the reason they did not receive the information until November 2022. The record does not support AT&T and Frontier's claims in this regard. Both carriers received their due process.

23.4. Assertions About Not Receiving All Information

AT&T alleges that parties received "only certain materials" related to the Network Reports, and that those materials were "handpicked by the proponent of the conclusions and recommendations in that report."[486] Frontier makes a similar claim.[487]

On November 21, 2022, the Assigned ALJ released roughly 1,900 files that were in the Commission's possession. After additional review, only one file was not released, while two files were edited to not release personally identifiable

[486] AT&T, Opening Comments on Administrative Law Judge Ruling Requesting Comments on Network Examination and ARMIS Report, filed December 21, 2022, at 41.

[487] Frontier, Opening Comments to Administrative Law Judge's Ruling Requesting Comments on Network Examination and ARMIS Reporting, filed December 21, 2022, at footnote 4: "For example, the Commission has not yet produced critical information needed to assess the Reports' findings, conclusions and recommendations, such as all workpapers showing Economics and Technology Inc.'s ("ETI") methodology and calculations and relevant communications between ETI and the Commission."

information.[488] The roughly 1,900 files include unredacted copies of both Network Exam Reports, as well as other files used in the creation of the two Reports. The files were organized by chapter and, where relevant, separated by carrier. The files include Excel workbooks, DO files,[489] DTA files,[490] PNG files,[491] Microsoft Word files, and PDF files, among other software types, and include significant data and information provided by AT&T and Frontier, such as FCC Form 477 submissions, balance sheets, spreadsheets of annual expenditures by wire center, company financial reports (including those filed with the Securities and Exchange Commission), earnings reports, U.S. Census Bureau data, and carrier trouble reports, among others.

Less than 24 hours after receiving access to the roughly 1,900 files, AT&T began making claims about not receiving all information it requested, in an email to the Assigned ALJ:

---

[488] When releasing the information, the Assigned ALJ wrote: "There are a relatively small number of files (my recollection is roughly 30) that require more review prior to a determination regarding whether to release them, release them with redactions, or not release them. The most notable files are part of Chapter 15, though there are some files in my possession [that are] are unorganized but appear to be duplicates. I will advise parties when these files have been released." *See*, Procedural Communication from Assigned ALJ, emailed on November 23, 2022, at 10:43 AM. In a subsequent email, the assigned ALJ wrote to all parties the following: "I added one folder entitled 'Chapter 15' and placed two files within that folder. Please note that I modified the file named 'Chapter 15 Tables 12-30-20 edited.' The original file contained Personally Identifiable Information about the individuals contacting the Commission's Consumer Affairs Branch. In order to not disclose that information, but disclose all of the other data in the Excel workbook, I deleted two columns each in two spreadsheets. At this point, there is only one remaining file that I have not yet determined whether to disclose. The other files I reviewed were duplicates." *See*, Procedural Communication from Assigned ALJ, emailed on December 1, 2022 at 6:36 P.M.

[489] A DO file is a standard text file that is executed by STATA software.

[490] A DTA file is a data file format primarily used when using STATA software.

[491] A PNG file is an image file.

> "the documents under the Working Materials folder do not contain ETI's workpapers, mappings or analysis. The tables and source data provided are not workpapers. Workpapers are the roadmap/mappings that take the analyst from the data provided by AT&T (or the other source information) to the final result (the exhibits/table). For example – AT&T needs to understand how the Commission utilized the census block data and other demographic data to create wire center level demographic statistics. What are the underlying calculations and assumptions, and where are the underlying work papers that trace the process?
>
> … Further examples would include, in the Phase 1 report, figure 4.5 appears to have used some statistical analysis. However, in looking at the provided information, only the data from the table was provided. No statistical analysis was provided. For table 7.13 in the Phase 1 report, there are three different files provided (each with a different date). There is no explanation as to which file is correct, which file was used to support the report and without the native excel file, it is unclear as to the source of the numbers at all."[492]

The statements in the above email appear to be contradicted by AT&T's expert witness, Dr. Aron, who states "Supporting workpapers were not provided until November 2022… [I] found that the workpapers provided were not complete in material ways that impeded my analysis once they were received, because they lacked specific support for analyses that we had been unable to reverse-engineer."[493] Indeed, the only instance Dr. Aron could not replicate

[492] Procedural Communication from AT&T, email from Andy Umaña, attorney for AT&T, emailed on November 22, 2022 at 12:04 P.M.

[493] Aron Declaration (Attachment A to AT&T, Opening Comments on Administrative Law Judge Ruling Requesting Comments on Network Examination and ARMIS Report, filed December 21, 2022), at 51.

without workpapers was household income variable reported in the Network Exam Report.[494]

On a regular basis, the explanation of how the consultant performed specific analysis is contained within the text of the Network Exam Reports. Examples include those listed below.

i. At pages 58 to 59 of Network Exam Phase 1 Report, the consultant identifies the software it used, its purpose, and where to purchase it.[495]

ii. At page 159 of Network Exam Phase 2 Report, the consultant explains the standard for determining whether a wire center is "small" to "'very large."

iii. Page 173 of Network Exam Phase 2 Report explains how the consultant used U.S. Census Bureau data: "In support of our work on Phase 1, CD/GIS had provided us with a mapping of the roughly 500,000 Census Blocks in AT&T California's operating areas to the AT&T wire center serving that Census Block. Included in this dataset were the 2017 population, number of households, and median household income for each Census Block. The Census Bureau does not provide Census Block-level area data, but does provide land area in square miles for each Census Tract. Census Tracts are small, relatively permanent statistical

---

[494] *Id.*, at 51-52.

[495] The consultant notes: "Using STATA, ETI assembled an integrated database consisting of nearly 8-million individual trouble report records submitted by AT&T California and by Verizon/Frontier California over the 2010-2017 study period. These were combined with a range of data on the nearly 900 individual telephone central offices (wire centers) operated by the two companies, and augmented by the various financial and other data that we were able to collect and organize. STATA's statistical analysis tools were used to develop linear regression and trend analyses between and among various data series and to prepare and produce numerous data tabulations and graphs. These data sets and associated STATA data analysis scripts (programs) will provide a useful and ongoing analytical tool that the Commission can maintain and expand into future periods. The roughly 1,900 files released by the Commission released includes a number of DO files.

subdivisions of a county, with populations that range between 1,200 and 8,000, with an average of about 4,000. We aggregated the individual Census Block data to the Census Tract level within each AT&T wire center serving area. Where a Census Tract was served by more than a single wire center, we assigned it to the wire center that served the majority of the Census Tract. Finally, we aggregated all Census Tracts within each wire center serving area to obtain land area and population for that wire center.

We were then able to calculate the population density for each wire center serving area by dividing its total land area by the number of households. Because wireline telephone service is typically furnished to a household rather than to an individual, we used total households rather than total population for this purpose. Wire centers were then assigned to one of five quintiles in terms of their density – the lowest 20% were assigned to Density Group 1, the next 20% to Density Group 2, and so on."

iv. Page 186 of the Network Exam Phase 1 Report includes the following explanation: "While examinations of individual wire centers is essential to isolating specific problem areas and sources of concern, it is also instructive to create groups of individual wire centers having similar geographic or other attributes. In that regard, ETI has constructed five different attribute dimensions – (1) the presence of fiber upgrades; (2) wire center size (number of access lines); (3) the percentage decrease (loss) in the number of access lines in service to competing providers and/or to competing services over the study period; (4) the AT&T Technical Field Services (TFS) organization to which the wire center has been assigned; and (5) the population density of the area served by the wire center (households per square mile). For each of these five attribute dimensions, ETI has defined a set of categories whose potential effect upon service quality was then individually examined. These

are summarized in Table 4A.11 below. In Table 4A.12, we show, for each of these five attribute dimensions, the category in which each individual AT&T wire center has been classified. In addition, Table 4A.12 also provides the median household income for the population served from the specified wire center.

For example, the Alhambra wire center in Los Angeles County (ALHBCA01) has been assigned to the "Yes" category with respect to Fiber Deployment, to the "Over 20,000 Lines" category with respect to Wire Center Size; to the 70%-80% category with respect to Access Line Loss, to the "1800+ per Square Mile" category with respect to Population Density, to the San Gabriel Technical Field Services District, and to the $55,000-$66,999 Median Household Income category."[496]

v. Page 122 of the Network Exam Report Phase 2 includes the following explanation: "We have sorted this table by the coefficient of Percent Cleared within 24 Hours, from lowest (i.e., most negative, or worst result) to highest (most positive, or best result). The "Coefficient" shown for each of the four metrics on this table represents the slope of the estimated trend line based upon the actual out-of-service incidents experienced in the wire center over the full 10-year period (Table 4A-8(a)) and for the 2-year 2018-2019 period (Table 4A-8(b)). A positive value for the coefficient indicates an upward trend – i.e., that if plotted on a graph the trend line would go from the lower left to the upper right of the chart. The higher the positive value of a coefficient, the greater the rate of increase over time. The regression calculations were prepared using quarterly time-series data. The tables provide the starting and ending predicted values for the variable being examined (e.g., the starting and ending predicted values for the percentage of out-of-service tickets cleared within 24 hours) and the mean value

[496] Network Exam Report Phase 1 at 186. Similar language appears on Network Exam Report Phae 2 at 136.

> over the full 10-year period or the 2-year Phase 2 period. The regression coefficient represents the change, up or down, in the trend on a per-quarter basis. For example, the following values are shown for AT&T's Acton wire center (ACTNCA12) over the 2010-2019 period with respect to the Percent Cleared within 24 Hours.

Elsewhere, it is explained that fiber-to-the-premise (FTTP) availability was used as a surrogate for specific data on capital investment in each wire center.[497]

There are other instances in the various files where the consultant provided a written explanation, including those examples listed below.

- Under Chapter 13, there is a Microsoft Word document that explains analysis using National Oceanic and Atmospheric Administration information in the following manner: "In order to produce figures analyzing the relationship between average regional precipitation and regional OOS per 100 access lines, I collected precipitation statistics from the National Oceanic and Atmospheric Administration's (NOAA) Global Summary of the Month (GSOM) dataset, which provides detailed estimates of various meteorological measurements on a monthly basis sourced from weather stations across the United States. To calculate average precipitation across California's Census regions, I identified weather station locations by county, then averaged total monthly precipitation across Census regions. In order to compute OOS per 100 access lines at the regional level, I used wire center county locations provided by AT&T to aggregate OOS counts and access lines by Census regions"
- Under Chapter 13, there is a Microsoft Word document that explains analysis using Cal Fire information in the following manner: In order to produce figures analyzing the relationship between major regional fire incidents and

[497] Network Exam Report Phase 2 at 282.

> regional OOS per 100 access lines, I collected and analyzed fire statistics published by the California Department of Forestry and Fire Protection (CAL FIRE), which include dates and locations of major fire incidents that occurred in California from 2013 – 2020, as well as the number of acres burned in each incident. To calculate the monthly number of incidents by Census region, I identified the county (or counties) in which each major fire occurred, then summed the number of incidents in each county across Census regions. Likewise, to calculate the monthly number of acres burned by region, I summed the number of acres burned in each county, then aggregated these data across Census regions. I plot these time series against OOS per 100 access lines by region in the following figures."

The Commission is required to release the information it has in its possession and the record confirms that this happened. All parties, including AT&T, had access (provided they signed nondisclosure agreements) to the data used by the consultant, and could purchase STATA software and engage in its own independent analysis of the data. The Commission is not obligated to create new records in order to respond to the joint request of AT&T and Frontier, nor is it required to provide the carriers with the software used by the consultant.

The record does not support the claims of AT&T and Frontier.

The Small LECs claim the Network Exam Reports were conducted with "limited transparency."[498] CTIA makes the following claim: "CTIA sought the original data and work-papers used to develop the Network Exam Reports, but that data and the work-papers have not been made available. To the extent some limited non-original data was produced, it was not sufficient to provide confidence in the validity of the Network Exam Reports and their

[498] The Small LECs, Opening Comments at Administrative Law Judge's Ruling Requesting Comments on Network Examinations and ARMIS Reporting, flied December 21, 2022, at 2-3.

conclusions."[499] All parties had the same access to the roughly 1,900 files that were released, provided they signed the required acknowledgement about not disclosing the information. It is not clear if the Small LECs requested access. CTIA requested and received access. Regardless, this section addresses concerns about access and it appears, at best, that both the Small LECs and CTIA simply repeat the refuted accusations of AT&T and Frontier.

23.5. AT&T's Assertion About the Impartiality of Network Exam Consultant

AT&T argues that the Commission cannot use the Network Exam Reports because AT&T claims that Dr. Lee Selwyn, the principal for ETI, the consultant hired by the Commission as part of a competitive bidding process to conduct and prepare the Network Exam Reports, is biased against AT&T and other ILECs. AT&T notes that Dr. Selwyn and ETI have appeared as witnesses for parties opposing ILECs in Commission proceedings and that, since passage of the Telecommunications Act of 1996, Dr. Selwyn has testified for Cal Advocates (previously known as the Division of Ratepayer Advocates or the Office of Ratepayers Advocates) at least six times and various CLECs at least 15 times. Further, AT&T contends that Dr. Selwyn's publications reveal an anti-ILEC bias, and a predisposition for increasing regulation of ILECs.[500]

In rebutting AT&T on this point, we note this is not the first time AT&T has raised this claim about bias, as it also did so in a March 2018 motion to

[499] CTIA, Opening Comments at Administrative Law Judge's Ruling Requesting Comments on Network Examinations and ARMIS Reporting, flied December 21, 2022, at footnote 9.

[500] AT&T, Opening Comments on Administrative Law Judge Ruling Requesting Comments on Network Examination and ARMIS Report, filed December 21, 2022, at 44-46.

reopen the bidding process to select a new consultant for the Network Exam after the Commission awarded the contract to its consultant.[501]

In its filings for this proceeding, AT&T misapplies the standard for bias used in the cases it cites,[502] which address the recusal of judges or decision makers for bias, not consultants or expert witnesses. The consultant submitted its report to the Commission's Executive Director and Director of the Communications Division, not to Commissioners or to a judge, and the Communications Division oversaw the consultant's work.[503]

In addition to the misapplication of case law, AT&T omits two important legal findings:

- The Commission followed state contracting law and other procedures when issuing the RFP, including noticing the RFP to the general public on October 31, 2017 and posting a "Notice of Intent to Award" on January 12, 2018, allowing the public to protest the award, and AT&T did not allege any violations in the RFP selection process or violations of the state contracting rules;[504] and
- This issue has already been adjudicated, with an ALJ considering AT&T's motion and ruling against it.[505]

---

[501] *Motion of AT&T California [AT&T] (U 1001 C) to Reopen Bidding And Select A New And Independent Consultant For The Network Evaluation*, filed in R. 11-12-001, March 1, 2018.

[502] For example, AT&T cites the cases *Rippo v. Baker*, 137 S. Ct. 905, 907 (2017) and *Williams v. Pennsylvania*, 136 S. Ct. 1899, 1905-06 (2016) which address recusal of judges or decision makers for bias, not a consultant or expert witness.

[503] *See*, Network Exam Report, at Preface.

[504] *See*, Administrative Law Judge's Ruling Denying Motion of AT&T California (U1001C) to Reopen Bidding And Select A New And Independent Consultant For The Network Evaluation (R. 11-12-001), issued June 25, 2018, at 5.

[505] *See*, Administrative Law Judge's Ruling Denying Motion of AT&T California (U1001C) to Reopen Bidding And Select A New And Independent Consultant For The Network Evaluation (R. 11-12-001), issued June 25, 2018. The ruling denied AT&T's motion, finding that AT&T has

Footnote continued on next page.

Finally, undercutting AT&T's bias claim is the fact that Dr. Selwyn has performed significant consulting or expert witness work for AT&T in proceedings before this Commission, before other State Commissions and agencies, at the FCC and before courts. Appendix C lists the 80 dockets that were easily found. To an objective observer,[506] it more than strains credibility to claim an expert witness or consultant is biased against an entity when that same entity has employed that same expert witness or consultant on numerous occasions, yet AT&T attempts to do exactly that in this case.

Additionally, it appears that AT&T was less than accurate regarding the extent of Dr. Selwyn's work on behalf of AT&T, given that appearing in at least 80 dockets is far more than "sometimes" testifying on AT&T's behalf, as AT&T has previously claimed.[507] Finally, we note that other ILECs have opined on the working relationship between AT&T and Dr. Selwyn in a manner that calls into question AT&T's claims.[508]

---

not demonstrated that Dr. Selwyn is not "an independent consultant," or that he is incapable of conducting an independent evaluation.

[506] *See*, *AT&T'S Opening Comments on Administrative Law Judge Ruling Requesting Comments on Network Examination and ARMIS Report*, filed December 21, 2022, at 5. AT&T claims "an objective observer would suspect Dr. Selwyn was predisposed to find fault with AT&T and Frontier (and recommend enhanced regulation) because he has done precisely that in the past."

[507] AT&T's comments in this proceeding do not mention its relationship with Dr. Selwyn, but it previously described it in the following manner: "Dr. Selwyn does ***sometimes*** testify on behalf of AT&T entities in court proceedings…" (emphasis added) *See,* Motion of AT&T California [AT&T] (U 1001 C) to Reopen Bidding And Select A New And Independent Consultant For The Network Evaluation, at ft 31.

[508] *See,* Verizon Press Release, *AT&T's Latest Antic Defies Common Sense*, issued March 8, 2001. "AT&T today asked the Pennsylvania Public Utility Commission (PUC) to further delay its consideration of the wrongful split of Verizon in the state. In doing so, AT&T cites a study conducted by its perennial hired gun Lee Selwyn." The press release later states that Selwyn has "parroted AT&T's position for years." Available at: https://www.verizon.com/about/news/press-releases/atts-latest-antic-defies-common-sense. (Last searched on February 21, 2025)

While we certainly recognize that Dr. Selwyn has appeared as an expert witness for parties opposing AT&T in proceedings at this Commission, and has offered positions that AT&T disagrees with, and even has been critical of AT&T at different points in time, none of these acts, on their own, disqualify an individual from becoming an eligible contractor with the State of California. AT&T's repeated claims of bias do not meet any legal standard and are not supported or credible, even without considering AT&T's factual omissions.

23.6. Verizon's Concern About Workshop

Verizon notes that according to the Assigned Commissioner's Scoping Memo and Ruling, issuance of the Staff Proposal would be followed by workshops, but that did not happen. Verizon opines that given "the many analytical deficiencies and ambiguities in the Staff Proposal, workshops may help Staff properly develop the record and conclude, as it should, that the best regulator of wireless service quality is competition, not micromanagement or command and control prescriptive standards."[509]

While Verizon is accurate if it intended to state that the Assigned Commissioner's Scoping Memo and Ruling initially envisioned both a Staff Proposal and a Workshop in the First Quarter of 2023,[510] the first sentence in the same section of the Assigned Commissioner's Scoping Memo and Ruling states "The following schedule is adopted here and may be modified by the Administrative Law Judge (ALJ) or the assigned Commissioner as required to promote the efficient and fair resolution of the Rulemaking."[511] On August 21,

[509] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 15.

[510] Assigned Commissioner's Scoping Memo and Ruling, issued July 7, 2022, at 4.

[511] *Id*.

2023, the Assigned ALJ issued a ruling noticing a workshop on September 7, 2023, noting that it was pursuant to Rule 7.5(a)(2).[512]

Under Rule 7.5, all quasi-legislative proceedings must include the issuance of: 1) an assigned Commissioner's ruling or an industry division staff report setting forth recommendations on how to resolve the issues identified in the scoping memo; and at least one workshop "providing an opportunity for the parties to the proceeding to have an interactive discussion on issues identified in the scoping memo either in person or via remote participation."[513] Verizon's statement ignores that at the workshop a number of issues in the Staff Proposal, or otherwise in the scope of this proceeding were discussed, as well as items that were not included in the Staff Proposal.[514] CTIA represented the wireless industry on two panels,[515] and offered its opinion on the state of competition,[516] as did the California Broadband & Video Association,[517] and Frontier.[518] Discussion about competition occurred and the arguments advanced by CTIA and other carriers were not persuasive. As noted elsewhere in this decision, analysis regarding market competition will not change the data on outages.

---

[512] Administrative Law Judge's Ruling Noticing Workshop, issued, August 21, 2023, at 1.

[513] Rule 7.5 (a)(2)

[514] *See*, Administrative Law Judge's Ruling Noticing Workshop, issued, August 21, 2023, Attachment A dn Attachment B for a full list of issues Staff wished to discuss.

[515] *See*, Workshop Summary Report, filed September 21, 2023, at Table of Contents.

[516] Workshop Summary Report at Attachment E, beginning at soft copy page 149. The title of the CTIA presentation was "Competition Regulates Wireless, Meeting Consumer Demands."

[517] Workshop Summary Report, filed September 21, 2023, at Attachment E, soft copy page 136.

[518] *Id*. at soft copy page 160. The title of Frontier's presentation was "Increase in Intermodal Voice Competition and Declining POTS Access Lines Since G.O. 133D Adopted."

23.7. Possibility of Evidentiary Hearing or Legal Briefing

Verizon states that the Ruling issuing the Staff Proposal "suggests the possibility that after Reply Comments on the Staff Proposal are filed, the next step could be a proposed decision. But that possibility should not ignore the Scoping Memo's process for determining evidentiary hearings or providing for legal briefing."[519] Sonic claims that, before adopting the proposed rules for VoIP, the Commission "should thoroughly examine and decide the necessary predicate issue of whether it has the jurisdiction to do so."[520]

Regarding evidentiary hearings, the Assigned Commissioner's Scoping Memo and Ruling notes the following:

> "At the PHC, several parties requested the opportunity to submit a motion for evidentiary hearing after issuance of the Scoping Memo. Parties have until 15 days after reply comments on the staff proposal are filed and served to file motions requesting evidentiary hearings and must support those motions with specific material disputed facts. These motions shall also contain requests for briefing, if any, along with an explanation of what issues the parties believe are appropriate for briefing and why. Parties may file a motion requesting briefing if they believe briefing on legal issues are needed regardless of their position on whether evidentiary hearings are needed." [521]

No party filed a motion for evidentiary hearing.

Regarding legal briefs, the Assigned Commissioner's Scoping Memo and Ruling notes the following:

---

[519] Verizon, Opening Comments on Staff Proposal, filed September 3, 2024, at 51.

[520] Sonic, Reply Comments on Staff Proposal, filed September 17, 2024, at 5-6.

[521] Assigned Commissioner's Scoping Memo and Ruling, issued July 7, 2022, at 4.

> "Although certain parties, including Verizon, the California [Broadband & Video] Association, and Frontier, among others, request that this proceeding begin with legal briefs, as part of an effort to determine 'if' the Commission has jurisdiction over wireless, VoIP, and broadband Internet services, I do not find it necessary to delay action in Phase 1 to settle this matter, given that the Commission previously has found it has jurisdiction to adopt certain types of regulations over wireless and VoIP services. The preemption in 47 U.S. Code § 332 (c)(3) applies to rates and market entry, not conditions."[522]

Parties have opined extensively on the issue of the Commission's jurisdiction and other legal matters. The Commission has addressed its jurisdiction over wireless and VoIP services in several proceedings. Therefore, further briefing is unnecessary.

24. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comments submitted in a proceeding be summarized in the final decision issued in that proceeding. A summary of public comments on the docket card is contained in Section 5.2.

25. Conclusion

This Commission adopts General Order 133-E, included in Appendix A.

26. Comments on Proposed Decision

The proposed decision of Commissioner Darcie L. Houck in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of

[522] *Id.*, at 5.

Practice and Procedure. On May 12, 2025, the following parties filed Opening Comments:

- Consolidated Communications;
- Cal Advocates;
- Verizon;
- AT&T;
- California Broadband & Video Association;
- Frontier;
- Cloud Alliance;
- TURN and CforAT;
- CTIA;
- The Small LECs;
- USTelecom;
- SBUA;
- T-Mobile; and
- RCRC.

On May 27, 2025, the following parties filed Reply Comments:

- TURN;
- The Small LECs;
- CforAT;
- Frontier;
- Cal Advocates;
- Verizon;
- Charter, Comcast, Time Warner and Cox;
- AT&T;

- CTIA;
- SBUA;
- Consolidated Communications; and
- California Broadband & Video Association.

In response to comments from the California Broadband & Video Association, we revise the Customer Service Standard discussed in Section 18 and make corresponding edits to the adopted General Order. We revise the call answer time requirement so that the standard is that 80 percent of customer calls must be answered within 60 seconds. In addition to those already listed, exemptions to this standard also shall include declared states of emergency, as well as natural disasters, so that the Commission's standard is similar to the FCC's approach.

In response to comments from the Small LECs, we revise the Customer Service Standard so that carriers serving less than 5,000 access lines are exempt. Finally, in response to several carriers, we delete the requirement that any chat bot or automated system must provide an option to speak to a live representative within the first ten seconds of the connection being made.

In response to comments from the California Broadband & Video Association, we revise Section 12 of this decision, as well as the corresponding provisions in the adopted General Order, such that carriers are exempt from the Commission's outage, installation and customer service requirements in the event of an active Public Safety Power Shutoff (PSPS) event, as well as in the case of an unplanned loss of commercial power that exceeds any applicable state or federal backup power requirements.

In response to comments from Frontier and Consolidated, we revise the Automatic Customer Refund requirements discussed in Section 13 of this decision and contained in Sections 2.1 (f) and 2.2 (f) of the General Order to reflect that the carrier has 60 days to issue a refund, instead of 30 days. As noted by both parties, if the service disruption occurs near the end of a billing cycle, it will be difficult for a carrier to meet the 30-day requirement.

In response to comments from the California Broadband & Video Association, we revise the automatic customer credit so that it is outage refund is proportional to the lack of service, meaning that for outages lasting longer than 24 hours, a customer is entitled to a refund equal to 1/30th of their monthly service bill for every day without service.

In response to comments, we remove from the General Order all multipliers for per day fines for outages lasting longer than 48 hours.

We also revise the automatic customer credit section to clarify that the credit applies only to the charge associated with the service, not user fees or other government-mandated fees or taxes.

In response to comments from Frontier, Consolidated, and the California Broadband & Video Association, we clarify that carriers subject to General Order 133-D will remain subject to it until ~~July~~January 1, ~~2026~~2027.

We defer to Phase 2 of this proceeding the enforcement process for wireless outages. This is to obtain better data regarding wireless outages, data to be provided by parties in Phase 2 of the proceeding. CTIA, AT&T, Verizon and T-Mobile are expected to provide information such as impacted user data using estimation methods such as Home Location Register (HLR) or Visitor Location Register (VLR), which provide approximate information on connected devices, and is commonly used when reporting outages to the FCC. Parties are expected

to act in good faith and participate in this proceeding in a constructive manner, which includes providing information in a timely manner, requesting briefing and evidentiary hearings consistent with the proceeding schedule. We made four edits throughout this decision and the new General Order to ensure consistency and clarity. The first edit is to ensure the consistent use of the term "fixed interconnected VoIP service" through this decision and the adopted General Order. In some instances, "fixed interconnected VoIP service" was used to explain the distinction between fixed and nomadic VoIP service; in other instances, "interconnected fixed VoIP service" was used. Second, we revise Section 9.2, as well as the corresponding elements of the General Order, to clarify that the requirement to repair induvial POTS customer outages applies to all facilities-based telephone companies and COLRs. The proposed General Order listed "facilities-based telephone corporations" as a sub-bullet. We make this clarification to ensure that in the event the Commission grants a COLR withdrawal application, that carrier understands it still is required to adhere to General Order 133. That scenario was never contemplated in this proceeding, nor proposed. The Commission wishes to remove any doubt on this issue.
Third, Sections 9.2 and 10.2 of this decision are revised to make clear that facilities-based telephone companies and COLRs also are required to file with the Commission all POTS and VoIP Community Isolation reports submitted to Cal OES. The PD as issued did not conform with the proposed General Order, instead indicating that the Commission would penalize POTS and fixed interconnected VoIP carriers based on Community Isolation outages. Finally, we clarify that in the instance the Commission revises its backup power requirements from the current requirement of 72 hours of backup power for Tier 2 and 3 HFTDs, the updated rules will apply for purposes of complying with

General Order 133-E, meaning that compliance with the existing standard at that time will be the standard.

As discussed above, in response to party comments, we defer consideration of the customer service standards as applied to wireless service to Phase 2 of the proceed.

Finally, for clarity, Appendix B is deleted. Appendix B was a redlined version of the Staff Proposal.

27. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Thomas J. Glegola is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Commission opened this proceeding to consider revisions to GO 133-D applicable to California telecommunication carriers.
2. The Commission's Communications Division brought forward numerous proposed changes to GO 133-D, issued a staff report containing significant hard data on outages, and issued a Staff Proposal delineating proposed changes.
3. Service restoration has declined for POTS and wireless voice services, as the number of outages have increased over time, as has outage duration, to such a degree that consumers now experience outages of well over 24, 48, 72 and 96 hours.
4. From 2018 through 2021 the URF ILECs (i.e., AT&T California and Frontier) collectively had the worst OOS performance among the three POTS carrier types that report OOS under GO 133-D, with 59.2 percent of customer outage tickets being resolved within 24 hours in 2018, 44.5 percent in 2019, 50.7 percent in 2020 and 52.5 percent in 2021. In particular, AT&T, the largest POTS provider in California, has seen a precipitous decline, only restoring 56 percent of

outage tickets within 24 hours in 2018, and in 2023, restoring only 39 percent of outage tickets within 24 hours.

5. NORS outage data indicates outages have increased. In 2018, carriers reported 2,030 outages, 1,524 were wireline and 506 were wireless. In 2019, the number of NORS outages increased to 4,028; 3,171 for wireline and 857 for wireless. Reported outages remained above 4,600 outages in 2020 and 2021.

6. In addition to an increase in the number of NORS outages, there was a dramatic increase in the number of outages of larger durations. Wireline carriers reported 432 outages in excess of 96 hours, with that total increasing to over 1,000 outages in both 2020 and 2021. In a similar manner, the number of wireless outages in excess of 96 hours increased from 31 in 2018 to 254 in 2021.

7. Cal OES began collecting community isolation outage data in August 2020. In 2021, POTS carriers reported 1,185 community isolation events. In 2022, POTS carriers reported 1,759 community isolation events. In 2023, POTS carriers reported 2,407 community isolation events.

8. Californians rely on their POTS service to receive emergency notifications, contact family and friends, and reach first responders during emergencies.

9. In 2021, wireless carriers reported to Cal OES 3,315 community isolation events. In 2022, wireless carriers reported 3,319 community isolation events. In 2023, wireless carriers reported 5,865 community isolation events.

10. Californians rely on their wireless devices to receive emergency notifications, contact family and friends, and reach first responders during emergencies.

11. In 2021, VoIP carriers reported to Cal OES 9,000 community isolation events. In 2022, VoIP carriers reported 8,421 community isolation events. In 2023, VoIP carriers reported 7,181 community isolation events.

12. The number of VoIP service outages is excessively high.

13. Californians rely on their VoIP service to receive emergency notifications, contact family and friends, and reach first responders during emergencies.

14. At least some of the reported outages are the result of circumstances beyond a carrier's control.

15. Overall, the experiences of Californians, customers of the various carriers, corroborate the hard data and other information in the record.

16. In Resolution T-17789 the Commission found that "AT&T… has flatly refused to invest sufficiently to meet the Commission's service quality standards."

17. Frontier states that its service quality improvements are the result of investment required as part of its Commission-approved acquisition of Verizon California, as well as its subsequent Commission-approved restructuring.

18. The current penalty mechanism in GO 133-D has not led to sufficient service quality improvements.

19. With respect to VoIP and wireless services, market forces, such as they exist, have not disciplined the service quality of VoIP and wireless carriers.

20. Reliable telephone service is essential for the public to access emergency services, maintain contact with family and friends, conduct business, and find employment.

21. The service quality standards in GO 133-E are necessary to ensure safe and reliable telephone service for California residents and businesses.

22. Penalties are necessary to deter carriers from violating the service quality standards set out in GO 133-E.

23. Automatic customer credits for failure to meet service quality standards are necessary to incent carriers to adhere to the service quality standards set forth in GO 133-E.

24. Voice customers of all telephone corporations should receive a functionally equivalent standard of service.

25. The Small LECs justified their proposed exemption from the service quality standards.

26. Wireless providers have identified deficiencies with relying on Cal OES Community Isolation event data and NORS data, but did not identify substitute data, despite being afforded several opportunities to do so.

27. An effective date of ~~July~~January 1, ~~2026~~2027, will allow for the orderly and efficient implementation of the new penalty rules set forth in GO 133-E.

28. The administrative burden is minimal to send a copy of a report prepared for Cal OES to this Commission.

Conclusions of Law

1. The public interest requires that telephone corporations furnish safe and reliable service.

2. The public interest requires that telephone corporations adhere to the service quality standards in GO 133-E, and that the Commission adopt the penalty mechanism to ensure that the telephone corporations comply.

3. The Commission has jurisdiction over facilities-based wireless providers, and authority to ensure the reliability of communications networks.

4. The Commission has jurisdiction over wireless telephone corporations and other communications utilities.

5. Pub. Util. Code Section 216 gives the Commission broad jurisdiction over public utilities, including telephone corporations as defined by Pub. Util. Code Section 234.

6. The Commission's "broad regulatory power over public utilities" derives from Article XII of the State Constitution, which establishes the Commission, and gives it wide-ranging regulatory authority, including but not limited to "the power to … establish rules, hold various types of hearings, award reparation, and establish its own procedures."

7. Pub. Util. Code Section 216 definition of a "public utility" includes every "telephone corporation" where service is performed, or a commodity is delivered to the public or any portion thereof.

8. Pub. Util. Code Section 234 definition of a "telephone corporation" includes "every corporation or person owning, controlling, operating, or managing any telephone line for compensation in this state."

9. Pub. Util. Code Section 233 definition of a "telephone line" includes "all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, or controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires."

10. California's Constitution, Art. XII, Section 3, specifically extends the Commission's jurisdiction to companies engaged in "the transmission of telephone and telegraph messages."

11. The Commission's authority over public utilities includes oversight over both public utility services and facilities pursuant to California Constitution, Art. XII Sections 1-6 and Publ. Util. Code Section 701.

12. Pub. Util. Code Section 451 requires the Commission to ensure that utilities, including telephone corporations, "furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and *facilities* … as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public." [emphasis added]

13. Pub. Util. Code Section 761 requires the Commission to ensure the reasonableness and sufficiency of *utility facilities*[523] and may order "additions, extensions, repairs, or improvements to, or changes in" utility facilities that the Commission finds "ought reasonably to be made." [emphasis added]

14. Pub. Util. Code Sections 233, 224.4 extends the Commission's jurisdiction to the facilities wireless carriers rely upon to provision service.

15. The Federal Communications Act does not preempt the Commission from exercising public safety regulation of wireless facilities.

16. The 1993 amendments to the Federal Communications Act ushered in an era of shared jurisdiction.

17. In 1993, Congress passed the Omnibus Budget Reconciliation Act of 1993 (Budget Act), which amended Section 332(c)(3)(A) of the Communication Act as follows: no State or local government shall have any authority to regulate the entries of or the rates charged by any commercial mobile service or any private mobile service, except this paragraph *shall not prohibit a State from regulating the other terms and conditions of commercial mobile service*. [emphasis added]

18. After Congress enacted the revised 47 U.S. Code Section 332, the Commission issued multiple decisions implementing the change in federal law

[523] Pub. Util. Code § 761.

and harmonizing those changes with existing Commission oversight of wireless telephony.

19. The Commission continues to exercise broad authority over wireless service.

20. In providing a role for states, Congress explicitly declined to occupy the field.

21. Congress did not expressly or otherwise preempt state health and safety rules.

22. The scope of 47 U.S. Code Section 332's preemptive language is limited to regulations that *directly and explicitly* control rates, prevent market entry, or require a determination of the reasonableness of rates.

23. The Commission retains the unequivocal authority to regulate "other terms and conditions of service."

24. The proposed penalty mechanism in GO 133-E is consistent with statute and the Commission's standards for imposing penalties set forth in D.98-12-075 because it is based on the size of the carrier and duration of the violations.

25. The public interest requires that telephone corporations subject to penalties be required to submit a Corrective Action Plan as detailed in this decision.

26. Carriers incurring a fine under GO 133-E must show progress in the implementation of the Corrective Action Plan within 6 months or additional enforcement action shall be pursued.

27. It is reasonable to grant carriers time to comply with GO 133-E and delay its effective date until ~~July~~January 1, ~~2026~~2027.

28. The Communications Division Staff should continue to review and analyze carriers' service quality results and performance for the benefit of

California consumers and to bring forward recommendations and proposals to this Commission.

29. Interconnected Voice Over Internet Protocol service providers are Public Utilities Telephone Corporations.

30. The Commission has broad jurisdiction over public utilities, including public utility services and facilities of telephone corporations.

31. Telephone corporations as defined in Pub. Util. Code Section 234, providing service over telephone lines as defined in Pub. Util. Code Section 233, include companies providing service enabled by interconnected VoIP service as defined in Pub. Util. Section 239.

32. Voice customers of all telephone corporations should receive the same standard of service.

33. The Commission should establish a service quality framework for interconnected VoIP service.

34. It is appropriate to exempt carriers with less than 5,000 access lines from the new service quality rules.

35. The Communications Division is already responsible for: 1) reviewing quarterly service quality reports of each carrier's performance against GO 133 standards and posting the results on the Commission website; 2) reviewing Tier 2 Advice Letters from carriers in violation against GO 133 standards to ensure accuracy in fine calculation; disposing the Advice Letters via Commission Resolutions; and 4) reviewing Tier 2 Advice Letters from carriers who are required to file a Corrective Action Plan to ensure the plan can improve service quality and disposing the advice letters via Commission Resolutions.

36. It is appropriate to continue to research the topic of wireless outages and wireless customer service standards in Phase 2 of this proceeding.

O R D E R

IT IS ORDERED that:

1. General Order 133-E, as set forth in Appendix A to today's decision, is Adopted, effective upon issuance. Enforcement shall become effective on ~~July~~January 1, ~~2026~~2027.
2. Rulemaking 22-03-016 remains open.

This order is effective today.

Dated _____, at San Francisco, California

Appendix A
(New General Order 133-E)

(**END OF APPENDIX A**)

~~Attachment 1:~~

~~Redline - [REV. 2] R.22-03-016.pdf~~

~~Attachment 2:~~

~~Appendix A - Clean.pdf~~

~~Attachment 3:~~

~~Appendix A - Redline.pdf~~

Summary report: Litera Compare for Word 11.0.0.61 Document comparison done on 9/16/2025 11:56:10 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: clean pd.docx	
Modified filename: (Rev. 4) R.22-03-016 PD 9-18 Agenda.docx	
Changes:	
Add	28
~~Delete~~	46
~~Move From~~	0
Move To	0
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	74