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10

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
13
14

15 **PACIFIC BELL TELEPHONE**
16 **COMPANY d/b/a AT&T**
17 **CALIFORNIA,**

18 **Plaintiff,**

19 **v.**

20 **JOHN REYNOLDS, in his official**
capacity as President of the
21 **California Public Utilities**
Commission; DARCIE L. HOUCK,
22 **KAREN DOUGLAS, MATTHEW**
BAKER, and CHRISTINE
23 **HARADA, in their official capacities**
as Commissioners of the California
24 **Public Utilities Commission; ROB**
BONTA, in his official capacity as
25 **Attorney General of the State of**
California,

26 **Defendants.**
27
28

3:26-cv-03148-LL-JAC

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS**

Hearing Date: September 3, 2026
Dept: Courtroom 14B
Judge: Hon. Linda Lopez
Trial Date: Not Set
Action Filed: May 20, 2026

**PER CHAMBERS RULES, NO
ORAL ARGUMENT UNLESS
SEPARATELY ORDERED BY
THE COURT**

REQUEST FOR JUDICIAL NOTICE

In support of their Motion to Dismiss, Defendants John Reynolds, Darcie L. Houck, Karen Douglas, Matthew Baker, Christine Harada, and Rob Bonta, in their official capacities, respectfully request that the Court take judicial notice of:

1. Decision 96-10-066 of the California Public Utilities Commission (“CPUC”), in *Rulemaking on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643*, R. 95-01-020, and *Investigation on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643*, I. 95-01-021 (Oct. 25, 1996), a true and correct copy of which is attached hereto as **Exhibit A**;

2. CPUC Decision 12-12-038, in *Rulemaking Regarding Revisions to the California High Cost Fund B Program*, R. 09-06-019 (Dec. 24, 2012), a true and correct copy of which is attached hereto as **Exhibit B**;

3. CPUC Decision 24-06-024, in *Application of Pacific Bell Telephone Company d/b/a AT&T California (U1001C) for Targeted Relief from its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations*, A. 23-03-003 (Jun. 25, 2024), a true and correct copy of which is attached hereto as **Exhibit C**;

4. CPUC Decision 08-11-033, in *Rulemaking Regarding Whether to Adopt, Amend, or Repeal Regulations Governing the Retirement by Incumbent Local Exchange Carriers of Copper Loops and Related Facilities Used to Provide Telecommunications Services*, R. 08-01-005 (Nov. 13, 2008), a true and correct copy of which is attached hereto as **Exhibit D**;

5. The Federal Communications Commission’s Report and Order, *In the Matter of Reducing Barriers to Network Improvements and Service Changes*, WC Docket No. 25-209, and *In the Matter of Accelerating Network Modernization*, WC Docket No. 25-208, FCC 26-19 (Mar. 26, 2026), a true and correct copy of which is attached hereto as **Exhibit E**;

///

1 6. Staff Proposal, CPUC Communications Division, in *Rulemaking*
2 *Regarding Carrier of Last Resort & Network Modernization*, R. 24-06-012, (Dec.
3 15, 2025), a true and correct copy of which is attached hereto as **Exhibit F**;

4 7. CPUC General Order 96-B, a true and correct copy of which is attached
5 hereto as **Exhibit G**;

6 8. CPUC Resolution T-17302, *Approving Verizon Cal. Inc. Advice Letter*
7 *No. 12535* (Jun. 9, 2011), a true and correct copy of which is attached hereto as
8 **Exhibit H**.

9 **ARGUMENT**

10 When ruling on a motion to dismiss, “courts must consider the complaint in its
11 entirety” as well as “documents incorporated into the complaint by reference and
12 matters of which a court may take judicial notice.” *Tellabs, Inc. v. Makor Issues &*
13 *Rts., Ltd.*, 551 U.S. 308, 322 (2007). The attached exhibits are all judicially
14 noticeable documents published by administrative agencies, and the majority of
15 them are also referenced in the Complaint. As such, this Court should consider
16 them in ruling on Defendants’ motion to dismiss.

17 **I. EXHIBITS A TO C AND E TO G ARE INCORPORATED BY REFERENCE IN**
18 **THE COMPLAINT.**

19 Exhibits A, B, C, E, F, and G are properly considered at the pleading stage
20 because Plaintiff relies upon them in its Complaint. *See Tellabs*, 551 U.S. at 322.

21 Documents incorporated by reference include those “documents whose
22 contents are alleged in a complaint and whose authenticity no party questions, but
23 which are not physically attached to the [plaintiff’s] pleading.” *Hicks v. PGA Tour,*
24 *Inc.*, 897 F.3d 1109, 1117 (9th Cir. 2018) (citation omitted); *see United States v.*
25 *Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003) (“Even if a document is not attached to a
26 complaint, it may be incorporated by reference into a complaint if the plaintiff
27 refers extensively to the document or the document forms the basis of the plaintiff’s
28 claim.”); *e.g., Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998 (9th Cir. 2010)

(considering prospectus quoted in complaint when ruling on propriety of dismissal). The incorporation-by-reference “doctrine prevents plaintiffs from selecting only portions of documents that support their claims, while omitting portions of those very documents that weaken—or doom—their claims.” *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 1002 (9th Cir. 2018).

Here, Exhibits A, B, C, and G are orders or decisions by CPUC the enforcement of which Plaintiff explicitly seeks to enjoin. Compl. (ECF No. 1), Prayer for Relief (i). They are referenced throughout the Complaint. *See id.* ¶¶ 11, 46–47, 50, 74, 77–78. Exhibit F is a proposal by CPUC staff that Plaintiff likewise discusses in the Complaint. *Id.* ¶ 78. And Exhibit E is the Federal Communications Commission’s (“FCC”) Network Modernization Order (or “NMO”) that Plaintiff claims preempts the CPUC rules that Plaintiff asks this Court to enjoin. *See, e.g., id.* ¶¶ 14, 17, 22, 43–44, 57–65, 73, 75. Given the centrality of these CPUC and FCC documents in the Complaint, and because their authenticity is not reasonably subject to dispute, this Court should deem Exhibits A, B, C, E, F, and G incorporated by reference and consider them in ruling on Defendants’ motion to dismiss. *Hicks*, 897 F.3d at 1117.

II. ALL EXHIBITS ARE JUDICIALLY NOTICEABLE AS AGENCY DOCUMENTS.

“[M]aterials of which a district court may take judicial notice are not considered extrinsic evidence for purposes of Rules 12(b)(1) and 12(b)(6).” *DeFiore v. SOC LLC*, 85 F.4th 546, 553 n.2 (9th Cir. 2023); *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003) (same). This includes “matters of public record,” such as documents published by administrative agencies. *Khoja*, 899 F.3d at 1002; *see Smith v. L.A. Unified Sch. Dist.*, 830 F.3d 843, 851 n.10 (9th Cir. 2016) (“[C]ourts routinely take judicial notice of ... records and reports of administrative bodies” (cleaned up)). The Ninth Circuit has, for example, affirmed the propriety of considering at the motion to dismiss stage public records of the Washington Department of Health, *see Kottle v. Nw. Kidney Centers*, 146 F.3d 1056, 1064 n.7

(9th Cir. 1998), and a two-year investigation policy expressed in a U.S. Department of Labor handbook, *see Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994). *Cf. DeHoog v. Anheuser-Busch InBev SA/NV*, 899 F.3d 758, 763 & n.5 (9th Cir. 2018) (on appeal, granting plaintiff’s “motion to take judicial notice of government documents” and other “undisputed matters of public record”).

Pursuant to these principles, each attached exhibit is judicially noticeable as a public agency record. Exhibits A, B, C, D, G and H are official decisions, orders, or resolutions of CPUC, and Exhibit F is a proposal by CPUC staff available on the public docket for CPUC’s ongoing *Rulemaking Regarding Carrier of Last Resort & Network Modernization*, R. 24-06-012. Exhibit E is an official order from the FCC. Thus, this Court should take judicial notice of these records when ruling on Defendants’ motion to dismiss. *See DeFiore*, 85 F.4th at 553 n.2.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that this Court take judicial notice of and consider the attached exhibits in ruling on Defendants’ motion to dismiss.

Dated: July 30, 2026

Respectfully submitted,

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Attorney General of California
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/s/ Camille Framroze
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Karen Douglas, Matthew Baker,
Christine Harada, and Rob Bonta, in
their official capacities

INDEX OF EXHIBITS

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EXHIBIT A

ALJ/JSW/jac *

Mailed

NOV 4 1996

Decision 96-10-066 October 25, 1996

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own
Motion into Universal Service and to
Comply with the Mandates of Assembly
Bill 3643.

R.95-01-020
(Filed January 24, 1995)

Investigation on the Commission's
Own Motion into Universal Service
and to Comply with the Mandates of
Assembly Bill 3643.

I.95-01-021
(Filed January 24, 1995)

(See Appendix F for List of Appearances.)

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I. Summary

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This decision finalizes the universal service rules that we originally proposed in Decision (P.) 95-07-050. Many of the issues raised in those proposed rules did not require any evidentiary hearings, but instead were commented upon by a number of parties in written comments in accordance with Rule 14.1 of the Commission's Rules of Practice and Procedure. (Cal. Code Regs., Title 20, Sect. 14.1.) (a) Other issues, such as the proxy cost model for estimating the costs of basic service, required evidentiary hearings. This decision addresses both the written comments and the evidence presented during the evidentiary hearings, as well as the comments that were filed in response to the issuance of the August 5, 1996 proposed decision.

Today's decision reaffirms the Commission's commitment to universal service by ensuring that residential telephone service be made available throughout California, and that the rates for such service remain affordable. Our decision adopts final rules pertaining to how universal service will be carried out in California as the local exchange telephone markets are opened to competing carriers. As we enter this competitive environment, yesterday's policies supporting universal service will no longer be sustainable.

The following are some of the key universal service rules and policies that we adopt:

- o The term "basic service" for residential customers is defined to include those telephone service elements that consumers have come to expect. (See App. B, Rule 4.)
- o All carriers providing local exchange residential service shall, at a minimum, provide all the service elements included in the basic service definition.

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o The definition of basic service may be revisited to evaluate whether service elements should be added or deleted from the definition.

o A Universal Service Working Group (USWG) will be formed to address ways in which access and deployment of advanced telecommunications technologies can be provided to all customer segments and how education, health care, community, and government institutions can be positioned to take advantage of these technologies.

o All local exchange carriers (LECs) and competitive local carriers (CLCs) shall be responsible for pursuing the objective of achieving a 95% subscriber rate among all customer groups. They shall also be required to include in their annual reports information about their subscriber rates.

o All LECs and CLCs must provide a matrix of pricing information regarding basic service. Such a matrix will allow consumers to compare the rates charged by other carriers for the same type of service.

o The Commission should take proactive steps to educate the public about changes and issues in the telecommunications market.

o In accordance with state and federal directives, qualifying schools, libraries, municipal and county government owned and operated hospitals and health clinics, and qualifying community based organizations (CBOs) shall be entitled to discounted rates for certain services. Funding for these discounts will come from the California Teleconnect Fund surcharge of 0.41%.

o The five large and mid-size LECs shall be included in the proxy cost model calculation for determining universal service support. They, and other carriers of last resort (COLR), who serve high cost areas in these service territories, will be eligible for subsidy support through the newly created

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- California High Cost Fund-B (CHCF-B). The seventeen smaller LECs shall not be subject to the rules applicable to the CHCF-B fund. Instead, the seventeen smaller LECs shall continue to be eligible for universal service support under the existing California High Cost Fund. We shall refer to the existing fund as the CHCF-A fund.
- In order to avoid a windfall to the five large and mid-size LECs, any subsidy support received from the CHCF-B shall be reduced by the same amount through an equal percentage reduction for all services except for basic service rates. The five incumbent LECs may file applications to decide what rates should be rebalanced downwards to permanently offset the explicit subsidy support.
- The Cost Proxy Model (CPM) sponsored by Pacific Bell (Pacific) has been selected as the proxy model to estimate the cost of providing residential basic service to the five large and mid-size LECs. The CPM estimated the statewide subsidy needed for providing universal service at \$1.7 billion, of which Pacific estimated that it would receive \$1.3 billion in subsidy support. The CPM model, its inputs, and its results have been examined by the parties to this proceeding. As a result of these critiques, we have made adjustments to the model which total to \$1.16 billion. As adjusted, we believe the adjusted CPM is consistent with the consensus costing principles (CCPs) adopted in the Open Access and Network Architecture Development (OANAD) proceeding.
- Using the adjusted CPM, a statewide average cost of \$20.30 was derived. That statewide average cost serves as the cut-off point for determining which census block groups (CBGs) are high cost CBGs whose costs exceed the statewide average cost of \$20.30 shall be deemed high cost areas and eligible for support from the CHCF-B.
- The benchmark for determining COLR support shall be the statewide average cost of

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- on \$20.30, for the carrier's flat rate plus EUCL, whichever is higher. The amount of the EUCL shall be the difference between the flat rate and the carrier's flat rate.
- o The subsidy amounts which designated COLRs may expect to receive shall be offset with revenues that the LECs or CLCs receive from basic service, the end user common line charge (EUCL) and the common carrier line charge (CCLC), and the interstate Universal Service Fund (ISUF) in the amount of 10% of the amount of the EUCL and CCLC.
- o The incumbent LEC, and any other designated COLR, shall be entitled to subsidy support for those high cost CBG's in accordance with the adopted rules of the ISUF.
- o An all end user surcharge (AEUS) rather than a net transit account, will be used to collect the CHCF-B subsidy amount. The estimated surcharge is 2.87%.
- o The CHCF-A and the CHCF-B may appear side by side as a single line item for purposes of collection on a customer's bill.
- o The California Teleconnect Fund shall appear as a separate line item for purposes of collection on a customer's bill.
- o The CHCF-B shall undergo a review in three years. The use of an auction mechanism in the future remains an option.
- o The Universal Lifeline Telephone Service (ULTS) program is revised to allow CLCs to compete for ULTS customers and to receive subsidy support for providing service to this customer group.
- o In order to avoid situations where ULTS funds are being used to promote the name of a particular carrier, the marketing expenses associated with promoting the ULTS program shall no longer be recoverable from the ULTS fund in accordance with the schedule set forth in this decision. Instead, a ULTS Marketing Working Group will be formed to provide competitively neutral marketing for the program. The benchmark for determining the cost of the statewide average cost of

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The above rules and policies are discussed in the following sections which follow.

In addition to the CHCF-A, CHCF-B and the California Teleconnect Fund, the other universal service programs include the Deaf and Disabled Telecommunications Program, and the ULTS program. As shown in Appendix B, these five universal service programs total to approximately \$855 million on an annual basis.

II. Procedural Background

In D.95-07-050, we described the backdrop leading up to the issuance of this rulemaking (OIR or R.95-01-020) and investigation (OIR or I.95-01-021) into universal service. A brief recap of some of those events, and of events subsequent to the issuance of D.95-07-050 will be of aid to those who seek an understanding of the process for today's decision.

R.95-01-020 and I.95-01-021 were opened in January of 1995 to develop rules to further the goals of universal service in a competitive telecommunications environment. This proceeding was opened as part of this Commission's comprehensive review of how state regulatory policies need to respond to the opening of monopoly markets to competition. In addition, the enactment of Assembly Bill (AB) 3643 (Stats. 1994, Chapter 278), which became effective January 1, 1995, provided some guidance as to the type of issues the Commission should concern itself with. AB 3643 called for the opening of a proceeding to examine the current and future definitions of universal service, and mandated that public hearings be held so as to encourage participation from broad and diverse interests from all areas of new economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced telecommunications services. The Deaf and Disabled Telecommunications Program is funded by the California Relay Service and Communications Devices Fund.

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the state; AB 3643 also stated that the objectives of the proceeding were as follows:

"(1) Define the goals of universal service in given the new technologies and increasingly competitive markets, with emphasis on the role of basic service in education, health care, and in the workplace.

"(2) Delineate the subsidy support needed to maintain universal service in the new competitive market.

"(3) Design and recommend equitable and broad based subsidy support for universal service in free, competitive markets.

"(4) Develop a process to periodically review and revise the definition of universal service to reflect new technology and markets.

"(5) Address the issues of 'carrier of last resort' and 'franchise obligations.'" (State 1994, Chap. 278, Sec. 2 (a).)

AB 3643 also went on to state that the recommendations developed in this proceeding shall be consistent with Public Utilities (PU) Code § 709, 2 and with the following principles:

"(1) Essential telecommunications services should be provided at affordable prices to all Californians regardless of linguistic, or other factors.

2 PU Code § 709 states as follows: "The Legislature hereby finds and declares that the policies for telecommunications in California are as follows: (a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications service to all Californians. (b) To encourage the development and deployment of new technologies and the equitable provision of services in a way which efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services. (c) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure.

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... cultural, ethnic, physical, geographic, or individual income considerations.

5(2) In order to avoid an 'information rich' and 'information poor' stratification, there must be an ongoing evaluation of which services are deemed essential and therefore a part of universal service.

7(3) Any subsidy that may be required to ensure that universal service remains a viable reality must have a clearly stated purpose and scope, include a broad-based and competitively neutral service funding mechanism, and be imposed in a manner that clearly identifies the source of the subsidy.

7(4) Public policy should provide incentives as needed to promote deployment of advanced telecommunications technology to all customer segments.

7(5) Consumers should be able to have access to all the information needed in order for them to make timely and informed choices about telecommunications products and services, and how to best use them.

7(6) Because of their economic and social impact, education, health care, community, and government institutions must be positioned to be early recipients of the benefits of the information age.

7(7) All parties involved in providing services utilizing evolving public networks should adhere to the same guidelines regarding mutual design and interoperability, common carriage, reliability, privacy, and security. (Stats. 1994, Chap. 278, Sec. 2(b)(2))

The universal service OFR solicited initial comments on how to meet the above objectives and principles. Responsive comments were filed in March 1993.

As a result of those initial comments, the Commission issued D.95-07-050. That decision described and set forth a proposed set of rules pertaining to universal service.

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cultural, ethnic, physical, geographic or individual income considerations. (2) In order to avoid an 'information rich' and 'information poor' stratification, there must be an ongoing evaluation of which services are deemed essential and therefore a part of universal service.

(3) Any subsidy that may be required to ensure that universal service remains a viable reality must have a clearly stated purpose and scope, include a broad based and competitively neutral funding mechanism, and be imposed in a manner that clearly identifies the source of the subsidy.

(4) Public policy should provide incentives as needed to promote deployment of advanced telecommunications technology to all customer segments.

(5) Consumers should be able to have access to all the information needed in order for them to make timely and informed choices about telecommunications products and services, and how to best use them.

(6) Because of their economic and social impact, education, health care, community, and government institutions must be positioned to be early recipients of the benefits of the information age.

(7) All parties involved in providing services utilizing evolving public networks should adhere to the same guidelines regarding mutual interconnectivity and interoperability, common carriage, reliability, privacy, and security. (Stats. 1994, Chap. 278, Sec. 2(b)(2)(b)(3))

The universal service office solicited initial comments on how to meet the above objectives and principles. Responsive comments were filed in March 1995.

As a result of those initial comments, the Commission issued a decision that described and set forth a proposed set of rules pertaining to universal service.

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telecommunications and information services to low-income consumers, and those in rural, insular, and high cost areas; (4) equitable and nondiscriminatory contribution by all providers so as to preserve and advance universal service; (5) provide for federal and state mechanisms to preserve and advance universal service; (6) provide schools, health care providers, and libraries with access to advanced telecommunications services; and such other principles that are necessary and appropriate to follow.

With respect to the state's authority to regulate universal service, the Telco Act states:

"(b) State Regulatory Authority.--Nothing in this section shall affect the ability of a state to impose, on a competitively neutral basis and consistent with section 254 requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers." (Telco Act, Sec. 253(b)).

III. Procedural Matters

A. Background

GTE California Incorporated (GTEC) was the only party who submitted transcript corrections. Since no one has objected to GTEC's proposed corrections, those corrections will be adopted and made in the Commission's copy of the reporter's transcript.

Toward Utility Rate Normalization (TURN) requested during the hearings that the model sponsors provide handbooks describing how the two different models operate. The handbook for Pacific's CPM was marked and received into evidence without objection as Exhibit 116. The handbook for the model sponsored jointly by AT&T Communications of California, Inc. (AT&T) and MCI

Telecommunications Corporation (MCI) was marked for identification as Exhibit 117; and was not distributed to the parties until the last day of hearing. Since none of the other parties had an

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in addition to the cost of the service. The cost of the service is a factor in the definition of basic service. The cost of the service is a factor in the definition of basic service.

The Definition Of Basic Service

1. Introduction

In order to effectuate a policy of universal service throughout the state, the Commission first needs to develop a list of the service elements which make up residential basic service. If the basic service definition is too narrowly drawn, some service elements that may be essential for participation in society may not only be enjoyed by those who can afford it, but certain urban (and) areas of the state may enjoy some essential service elements that customers in more rural areas may not have. In balancing what service elements should be included in the definition of basic service, the Commission must also be cognizant of the extra cost. If too broad of a definition is adopted, consumers may end up paying for service elements that they do not need or want.

In D.95-07-050, proposed rule 4 included the following elements in the basic service definition:

- o Access to single party local exchange service;
- o Access to interexchange carriers;
- o Ability to place and receive calls;
- o Touch tone dialing;
- o Free access to emergency services, 911/E911;
- o Lifeline rate for eligible customers;
- o Customer choice of flat or measured rate service;
- o Access to directory assistance;
- o Access to directory listings;
- o Access to operator services;

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o Voice grade connection to public switched telephone network/ provided by AT&T Wireless in the AT&T Wireless service. (Proposed rule 4.A.4.)

o Access to information services and 800 services/ Position of the parties

Following the issuance of the proposed rule contained in

o One-time free blocking for information services and one-time billing adjustment for charges incurred inadvertently, mistakenly, or that were unauthorized; D.95-01-020, I.95-01-021

o Access to telephone relay service as provided for in PU Code § 2881; AT&T Wireless service as provided for in PU Code § 2881; known as McCaw Cellular Communications, Inc. contended that

o Access to public pay telephones; certain aspects of the service, such as the choice by creating a separate service for information about, ULTS, service activation, service termination, service repair, and bill inquiries; AT&T Wireless service

o Free access to customer service for information about, ULTS, service activation, service termination, service repair, and bill inquiries; AT&T Wireless service

Under our proposed rule, all 16 of the service elements which make up the definition of basic service would have to be a competitive disadvantage to carriers that seek to provide forms of basic service using pricing mechanisms that are different than the traditional flat rate mechanism. AT&T Wireless believes that the unlimited flat rate calling option should only be mandatory where there is only one carrier in a geographic service area. (GSA)

6 In proposed rule 4 of Appendix A of D.95-01-020, the service element for "access to directory assistance" mistakenly appeared twice.

7 AT&T Wireless filed its comments on behalf of its following affiliates, all of whom do business as AT&T Wireless Services: Alpine CA-3, L.P., Chico MSA Cellular, Inc., Fresno Cellular Telephone Company, Oxnard Cellular Telephone Company, McCaw Communications of Stockton, Inc., Redding Cellular Partnership, Sacramento Cellular Telephone Company, and Santa Barbara Cellular Systems Ltd.

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provided by all carriers in the state who provide residential service. (Proposed rule 4.A.)⁶

2. Positions of the Parties

Following the issuance of the proposed rules contained in D.95-07-050, interested parties were allowed an opportunity to comment. Generally speaking, the commenting parties were largely supportive of the 16 service elements proposed in the rule.

AT&T Wireless Services, Inc. (AT&T Wireless), formerly known as McCaw Cellular Communications, Inc., commented that certain aspects of the proposed rules could unduly limit customer choice by creating mechanisms that disadvantage certain carriers and types of communications technologies. With regard to the definition of basic service, AT&T Wireless states that the service element of "customer choice of flat or measured service" results in a competitive disadvantage to carriers that may seek to provide forms of basic service using pricing mechanisms that are different than the traditional flat rate mechanism. AT&T Wireless believes that the unlimited flat rate calling option should only be mandatory where there is only one COLR in a geographic service area (GSA).

⁶ In proposed rule 4 of Appendix A of D.95-07-050, the service element for "access to directory assistance" mistakenly appeared twice.

⁷ AT&T Wireless filed its comments on behalf of its following affiliates, all of whom do business as AT&T Wireless Services: Alpine CA-3, L.P., Chico MSA Cellular, Inc., Fresno Cellular Telephone Company, Oxnard Cellular Telephone Company, McCaw Communications of Stockton, Inc., Redding Cellular Partnership, Sacramento Cellular Telephone Company, and Santa Barbara Cellular Systems Ltd.

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The California/Nevada Community Action Association (Cal/Neva) favors expansion of the one-time free blocking and one-time billing adjustments for information services to include unlimited free blocking and unlimited billing adjustments for unauthorized charges.

The DCA suggests that an additional service element be added to the definition of basic service. DCA proposes to add the following element, "access to a local telephone directory at no additional charge."

DCA also suggests that as more area code splits and area code overlays take place, that there will be an increase in the number of calls to directory assistance. DCA proposes that there be unlimited access to directory assistance at no additional charge, or that there be unlimited access to directory assistance at no additional charge for customers to adjoining areas that once were in the customer's own area code, or that there be a requirement that free telephone directories be provided to all customers in areas where the split or overlay occurred for both area codes.

The California Telecommunications Coalition (Coalition) proposes the following modifications to some of the service elements which make up the proposed definition of basic service:

- o free touch tone dialing;
- o free access to directory assistance for the first five calls per month;
- o a free directory listing for one name in a subscriber's household;

8 At the time this proceeding began, the Coalition was made up of the following: AT&T; California Association of Long Distance Telephone Companies; California Cable Television Association (CCTA); ICG Telecom Group, Inc.; which was formally known as ICG of Access Services, Inc. (ICG); MCI; MFS Intelenet, Inc.; Sprint Communications Co., L.P.; Teleport Communications Group (TCG); Time Warner A&S of California, L.P.; and TURN.

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The California Public Utilities Commission (CPUC) has approved a free white pages telephone directory and a free yellow pages telephone directory.

The Coalition is opposed to Pacific's recommendation that the service element which requires LECs and CLCs to offer flat rate service be eliminated. The Coalition points out that residential customers have had the choice of flat rate service and measured rate service, and that flat rate service is the preferred option.

Citizens Utilities Company (Citizens) commented that the policy statement in proposed rule 3.A.2 should be deleted. Citizens believes that the definition of basic service should be strictly limited to include only those services provided to residential customers which are so essential to basic network usage, that no customer should be denied access on the grounds of affordability. Citizens fears that this policy statement contains the implication that as technology advances, that there will be an automatic expansion of the definition of basic service. Citizens states that in order to foster a competitive market, it is important to limit and minimize the amount of subsidy required.

The Division of Ratepayer Advocates (DRA) suggested that several minor changes and clarifications be made to the basic

9 Citizens' comments represent the consolidated position of Citizens' five separate telecommunications entities: Citizens Telecommunications Company of California, Inc. (CTCC), an LEC; Citizens Telecommunications Company, d.b.a. Citizens Long Distance Company, an interexchange carrier (IEC); Electric Lightwave, Inc., a CLC; Citizens Telecommunications Company of Tuolumne, a small LEC, which purchased the operations and assets of Tuolumne Telephone Company (See D.95-07-037); and Citizens Telecommunications Company of the Golden State, a small LEC, which purchased the operations and assets of CP National. (See D.95-08-026).

10 Under the Commission's Vision 2000 reorganization plan, many of the functions of the DRA have been taken over by the Office of Ratepayer Advocates (ORA).

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service definition. In DRA's reply comments, DRA stated that it also supports the recommended changes of the Coalition and UCAN to the basic service definition.

GTCC commented that it did not agree with the Coalition's suggestion to add the word "free" to elements 4, 6, 10, and 18 of proposed rule 4.B. GTCC stated that all those service elements are part of basic service, but they are not provided for free. GTCC contends that the cost of those service elements should be reflected in the price paid for the basic service package.

Intel Corporation (Intel) believes that services such as Integrated Services Digital Network (ISDN) should not be included in the basic service definition at this time. Intel points out that ISDN is becoming increasingly available, but at a slow rate and at high prices.

Pacific commented that it agreed with the definition of residential basic service, but recommends that the definition should not mandate the offering of both a flat rate and measured service. Pacific proposes that usage revenues and costs be excluded from the calculation of the fund because creative calling plans are likely to be introduced which will have the effect of eliminating distinctions between local and toll calls.

Public Advocates, Inc.'s (Public Advocates) comments

(Footnote continued from previous page)
Rights of the San Francisco Bay Area, Motivating Advocates to
11. Public Advocates represents the interests of the following groups: Southern Christian Leadership Conference, National Council of La Raza, Korean Youth and Community Center, Filipinos for Affirmative Action, Filipino Civil Rights Advocates, Association of Mexican-American Educators, California Association for Asian Pacific Bilingual Education, California Association for Bilingual Education, California Rural Indian Health Board, Chicano Federation of San Diego County, Council for the Spanish Speaking, El Proyecto del Barrio, Escuela de La Raza Unida, Foundation Center for Phenomenological Research, Hermandad Mexicana Nacional, Korean Community Center of the East Bay, Lawyers Committee for Civil

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urge the Commission to include in the definition of basic service some access to advanced technology. Public Advocates' suggestions include the provisioning of lines with higher speed and more capacity so that transfer of voice, text, and images through the use of computers and telecommunication lines can be more easily accomplished. Another suggestion advanced by Public Advocates is to have CBOs act as the conduit by which the information superhighway is introduced to low income and immigrant communities. Under this proposal, qualified CBOs would receive a discounted rate of 50% for certain advanced telecommunications services. This issue is discussed later in this decision.

The Small LECs commented that they generally concur with the Commission's definition of basic service as set forth in the proposed rule, except for the requirement that companies offer measured rate local service.¹² The Small LECs state that many of them offer only flat rate service, and that the Commission should not require them to add a measured service offering as well. They contend that the addition of measured service will be more costly to provide than flat rate service because of the additional cost of measuring and billing the measured local usage.

The Smaller Independent LECs also generally agree with the proposed definition of basic service, but disagree that public

(Footnote continued from previous page)

Rights of the San Francisco Bay Area, Motivating Adolescents to Succeed, Mountain View Community Health Center, Multicultural Area Health Education Center, Spanish Speaking Citizen's Foundation and Spanish Speaking Unity Council, Juvenile and Community Youth and Community Association, and the Hispanic Civil Rights Association.
¹² When this proceeding first began, the Small LECs were made up of the following entities: CP National, Evans Telephone Company, GTE West Coast Incorporated, Kerman Telephone Company, Pinnacles Telephone Company, the Siskiyou Telephone Company, Tuolumne Telephone Company, and The Volcano Telephone Company. As noted in footnote 9, the operations and assets of CP National and Tuolumne Telephone Company were subsequently sold to two subsidiaries of Citizens. Our subsequent references to the Small LECs do not include these two subsidiaries of Citizens.

(Footnote continues on next page)

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policy pay telephones should be included in the definition.¹³ They contend that the definition of basic service should encompass the service components that should be provided in connection with each residential and business access line. They believe that the availability of public pay telephones is not relevant to the scope of basic service, and that public pay telephones should be addressed in the local exchange competition proceeding instead, even

In footnote 8 to the Coalition's September 19, 1995 answer, TURN indicated its concern that the customers' local calling area should be at least as large as the current local calling area.

Utility Consumers Action Network (UCAN) suggests certain clarifications to the proposed rules regarding the definition of basic service. UCAN suggests the following underlined portions be added to the rules:

- o free and unlimited access to 911/E911;
- o free touch tone dialing;
- o Lifeline rate for both monthly service as well as installation for eligible customers;
- o free access to directory assistance for first five calls per month;
- o free access to 800 services and 800 like services.
- o free white pages telephone directory and free yellow pages telephone directory;
- o free access to customer service in both English and non-English formats.

¹³ The Smaller Independent LECs refer to the following entities: Calaveras Telephone Company, California Oregon Telephone Company, Dutton Telephone Company, Forest Hill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., and Winterhaven Telephone Co.

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3. Discussion We believe that it is important to adopt a uniform definition of basic service so that all residential telephone customers, no matter where they live in California, or what their level of income is, can expect a certain minimum level of service. This is especially important in a mobile society where people may move across town or from one part of the state to another. For the vast majority of telephone customers, they have come to expect and rely on the service elements that we listed in D.95-07-050.

We will adopt some of the suggested revisions to the basic service elements which make up basic service as suggested by the Coalition, DRA, and UCAN.¹⁴ The suggested revisions are already incorporated as part of those particular service elements, and by adopting the suggested revisions, we are only clarifying what consumers, and our rules, regulations, and decisions, have come to expect.

Some of the revisions suggested by the Coalition and UCAN include the reference to the word "free" for certain services. GTEC points that each service element of basic service has an associated cost, and that the service elements which make up basic service are not free, since customers pay for basic service. Our use of the term in the universal service rules is intended to recognize that as part of the bundled basic service package offering, that "free" means there are no additional charges incurred by the customer when that service element is used by a customer.

¹⁴ The adopted rules are attached herein as Appendix B. Any differences between the adopted rules and the proposed rules, which are attached hereto as Appendix A for ease of reference, are highlighted in bold in the adopted rules. The proposed rules are attached as Appendix A for ease of reference. The proposed rules are attached as Appendix A for ease of reference. The proposed rules are attached as Appendix A for ease of reference.

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One of the suggestions of the Coalition, DCA, and UCAN, is to have a free white pages directory and free yellow pages directory. Telephone customers have become accustomed to receiving a free white pages directory and yellow pages directory every year. Free directories minimize the number of calls made to directory assistance, and promotes the wide distribution of yellow pages advertising. We shall add the free white pages directory to the definition of basic service. As GTEC pointed out in its comments to the proposed decision, yellow pages directory advertising is not subject to the Commission's jurisdiction, except as provided for in subdivision (b) of Public Utilities Code § 728.2. Thus, we will not require carriers to provide free yellow pages directories as part of basic service. Although we cannot require the distribution of free yellow pages, as noted earlier, the continued free distribution of yellow pages is clearly in the best interests of the carriers, their advertisers, and the public.

In the September 5, 1996 proposed decision, and in the revised proposed decision, the assigned ALJ recommended that there be an allowance of five local directory assistance calls at no additional charge. We agree with the comments that there is a cost associated with answering these calls, and that this is an issue best left to the marketplace to decide. We will, however, require the incumbent LECs to continue to provide the same number of free

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directory assistance calls that are provided for in their tariffs until otherwise ordered by the Commission. As for UCAN's suggestion that there should be free access to customer service in both English and non-English formats, our discussion of bilingual services covers that issue.

We will adopt the suggestion by the smaller independent LECs that the proposed service element regarding access to public policy pay telephones, should be deleted. The focus of the basic service definition is to define the service elements that are to be provided to all residential households. Public policy pay telephones are not provided to households. Therefore, we will

(b) of Public Utilities Code § 728.5. Thus, we will not require carriers to provide free yellow page directories as part of basic service. Although we cannot require the distribution of free yellow pages, as noted earlier, the continued free distribution of yellow pages is clearly in the best interests of the carriers, their advertisers, and the public.

In the September 2, 1995 proposed decision, and in the revised proposed decision, the assigned ALJ noted that there is an allowance of five local directory assistance calls at no additional charge. We agree with the comment that there is a cost associated with answering these calls, and that this is an issue best left to the marketplace to decide. We will, however, require the incumbent LECs to continue to provide the same number of free

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delete access to public policy pay telephones from our definition of basic service.¹⁵

We do not adopt the suggestions by Pacific and AT&T Wireless that flat rate service be eliminated. At the PPHs, many consumers expressed satisfaction with having a choice of flat or measured rate service. Depending on their circumstances, some have preferred measured rate service, while others preferred flat rate service. The flat and measured rate options preserve customer choice, and provide consumers with a method by which to compare shop among carriers. We believe that if wireless providers desire to compete in the local exchange market, they should be required to offer basic service in the same type of pricing formats that are offered today by wireline carriers.

For the smaller LECs in California, of which there are 17, we shall exempt them from the service element that they be required to offer customers the choice of flat or measured rate service, unless the smaller LEC currently offers that option. If, however, a new carrier decides to offer local exchange service in the service areas of these small companies, the new carrier will be required to provide all of the service elements listed in Rule 4 of Appendix B. Once competition arrives in these areas, the incumbent LECs that do not offer measured rate service will be forced by the market to offer it. In order for the definition of basic service to be expanded, the Commission will review the criteria contained in Rule 4.3.

15 Public policy pay telephones play a role in the universal service context because those types of phones are placed where the public safety or convenience requires it. (25 CPUC2d 281, 284 (fn. 1).) Those type of telephones raise issues about the availability of such phones, where they should be placed, and who should have to place them. There is a reply comment to the proposed rule that states that a carrier should be free to offer a flat rate service.

16 The term "smaller LECs" refers to all of the LECs included in the reference to Small LECs, the Smaller Independent LECs, Citizens Telecommunications Company of the Golden State, and Citizens Telecommunications Company of Tuolumne.

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market considerations to decide whether such an option should be offered to their customers.

For IDCA's recommendations regarding unlimited directory assistance for those customers who may be subject to area code splits and overlays, we decline to adopt that suggestion. The evidence presented during the hearings clearly shows that there are costs associated with the LECs having to provide directory assistance. The number of directory assistance calls should be curtailed with our adoption of the requirement that customers be provided with a local telephone directory, and the notification process that is put into place before an area code split or overlay is adopted.

We also decline to adopt Cal/Neva's suggestion to have no unlimited free blocking and unlimited billing adjustments for unauthorized information services calls. Such a change would invite an avalanche of billing adjustment complaints over whether calls were authorized or not. The end user should be responsible for deciding whether information services calls from their household should be blocked after this problem first occurs.

Citizens' recommendation to delete the policy statement in proposed rule 3.A.2 will not be adopted. Citizens' fear that the policy statement will result in the automatic expansion of the definition of basic service is unfounded. In order for the basic service definition to be expanded, the Commission will review the service in light of the criteria contained in Rule 4.C.3.

TURN raised the concern that with new entrants offering service, a customer's local calling area should be at least as large as the current local calling area. The Coalition, in footnote 13 of its reply comments, stated that CLCs who furnish residential service should be free to offer a flat rate service within a local calling area that differs from the local calling areas for the incumbent LECs. We believe that both of those

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concerns are more properly addressed in the local competition local proceeding rather than here. Some of the comments made at the PPHs, and in letters to the Commission, suggested that Internet access, certain kinds of custom calling features, and advanced broadband services, such as ISDN, should be incorporated into the basic service definition. We first note that the basic service definition adopted today enables anyone who has the computer hardware and software to connect to an Internet provider. All that is needed from a telecommunications standpoint is a voice grade telephone line and touchtone dialing, both of which are included in the basic service definition. Although many have talked about access (or lack thereof) to the Internet and the information superhighway, we must point out that this Commission only has jurisdiction over the telephone companies whose wires connect the computer to the information provider.¹⁷ To broaden the definition of universal service and basic service to include access to a computer, modem, software, and the information provider, is clearly outside this Commission's jurisdiction.

Broadening the definition of basic service to include broadband services, will also impose more costs on the incumbent LEC and the new carriers that want to enter the local exchange market. As some of the speakers mentioned at the PPHs, some existing customers may not want those services at all. In addition, the funding base would need to be increased as a result. We agree with

17 For example, in Public Advocates' survey of community based organizations, a survey question posed the need and demand for Internet service. 37.21% of the respondents had the service, 93.94% of the respondents who did not have the service, responded that they would use the service if it was affordable. The unaffordable portion may be the computer hardware, and the information provider's monthly fee, rather than the monthly cost of the telephone line. (See Public Advocates' Reply Comments, December 1, 1995; Survey attachment.)

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Intel's comment that to include greater bandwidth services at this time would create a new entitlement, which presently does not exist, and increase the need for additional funding. Before mandating the inclusion of a broadband pipeline into every residential telephone customer's house, as well as other calling features, we need to keep in mind that a number of households still exist within California that are without the means to afford any telephone service at all. We therefore decline at this time to include any other service elements in the definition of basic service. The service elements which we have included in the definition of basic service are contained in Rule 4.B, which is attached.

To ensure that all residential telephone customers are provided with the minimum level of service that we adopt today, Rule 4.A in Appendix B provides that all carriers that provide local exchange residential service shall provide all the service elements of basic service. Such a rule does not prevent carriers from offering more service elements than what the basic service definition requires.

B. Review Of The Basic Service Definition

Introduction AB 3643 states that one of the objectives of the universal service proceeding is to develop a periodic review process to revise the definition of universal service to reflect new technologies and markets. AB 3643 also provides that in order to avoid classes of information rich and information poor customers, there must be an ongoing evaluation of which services are deemed essential, and therefore a part of universal service.

Consistent with those directives, the Commission in D.95-07-050 developed proposed rules for the review of the basic service definition.

2. Positions of the Parties

Citizens suggests that the proponent who desires to include an additional service element into the definition of basic

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ADOPTED UNIVERSAL SERVICE RULES

1. DEFINITIONS

A. **All-Band User Surcharge (ABUS):** A funding mechanism used to collect money for Commission-mandated programs. The ABUS is applicable to all telecommunications carriers, with the exception of one-way paging companies. The surcharge is a percentage of the customers' total expenditures on telecommunications services. The surcharge is visible on customers' bills as a line item charge.

B. **Basic Service:** A certain defined minimum level of telecommunications service which each carrier of local exchange service is required to provide to all of its residential customers who request local exchange service. Basic service is sometimes referred to as basic exchange service.

C. **California High Cost Fund-A (CHCF-A):** A fund established by the Commission to ensure that customers in areas served by small and mid-size LECs have access to telephone services at reasonable rates. The Commission collects money for the fund through an ABUS and distributes the money to the small and mid-size LECs based on the individual need of the companies as authorized by a Commission resolution.

D. **California High Cost Fund-B (CHCF-B):** The fund developed in this proceeding to subsidize high cost areas of the state. (The fund includes a collection mechanism and distribution mechanism and a method for calculating the amount of the required subsidy.)

E. **California Teleconnect Fund:** The fund developed in this proceeding to provide discounts for telecommunications services to qualifying schools, libraries, hospitals, health clinics, and community-based organizations.

F. **Carrier of Last Resort (COLR):** A carrier who provides local exchange service and stands ready to provide basic service to any customer requesting such service within a specified area. To be a COLR, the provider must meet Commission-approved qualifications.

G. **Census Block Group (CBG):** An area defined by the United States Census Bureau for purposes of the CHCF-B. The CBG serves as the geographic study area.

H. **Common Carriage:** Provision of telecommunications services available to the public on a non-discriminatory basis.

I. **Competitive Local Carrier (CLC):** A common carrier which has been issued a Certificate of Public Convenience and Necessity effective on or after January 1, 1996, to provide

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local exchange telecommunications service for a geographic area specified by such carrier.

J. Competitive neutrality: The concept that regulation of the telecommunications industry should be structured in such a way that it neither favors nor impedes one telecommunications carrier or group of telecommunications carriers over any other carrier or group of carriers.

K. Geographic Study Area (GSA): A Commission designated geographic area that serves as a reference point from which cost data and high cost subsidies can be derived for the designated carrier or carriers of last resort.

L. Local Exchange: A telecommunications system providing service within a specified area, within which communications are considered exchange messages except for those messages between toll points.

M. Local Exchange Carrier (LEC): The incumbent local exchange carrier or carriers whose names appear on Attachment A of the rules.

N. Loop: A transmission path capable of delivering analog voice-grade signals between 300 and 3,000 Hz only, between the network interface at a customer's premises and the main distribution frame or any other point of interconnection to the LEC network. Also known as the basic level network access channel.

O. Open Access Network Architecture Development (OANAD):

Order Instituting Rulemaking and Order Instituting Investigation (R.93-04-003 and I.93-04-002) to govern access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.

P. Proxy Costs: Geographically specific costs developed using proxy factors rather than direct measurement of costs.

Q. Proxy Factor: Factor associated with costs, such as loop length or population density, which can be used to estimate costs when direct measurement is unavailable or impractical.

R. Total Service Long Run Incremental Costs (TSLRIC): The definition of TSLRIC that is developed in the OANAD OIR/OII. A group (GEG) : An area defined by the United States Census Bureau for purposes of the CCH-B. The GEG serves as the geographic study area.

II. Common Carrier: Provision of telecommunications services available to the public on a non-discriminatory basis.

I. Competitive Local Carrier (CLC): A common carrier which has been issued a Certificate of Public Convenience and Necessity effective on or after January 1, 1995, to provide

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Universal Lifeline Telephone Service (ULTS). The ULTS program is a statewide explicit customer subsidy that ensures low-income households have access to basic telephone services at a fixed and affordable rate. The ULTS program was created in response to the Moore Universal Telephone Service Act which became law in September 1983. The ULTS program is sometimes referred to as Lifeline.

The concept that basic service should be available to virtually everyone in California at affordable rates is the guiding principle for the ULTS program.

2. SCOPE OF RULES. These rules govern universal service to California telecommunications users. For the purposes of funding universal service, these rules apply to all California telecommunications carriers.

For the purpose of providing universal service, these rules apply to all California telecommunications carriers providing basic service. These rules apply to all California telecommunications carriers providing basic service.

3. UNIVERSAL SERVICE PRINCIPLES AND OBJECTIVES. The following principles and objectives guide the Commission's efforts to ensure that basic service is available to all Californians.

A. Principles. It is the policy of the Commission to ensure that high-quality basic telecommunications services remain available and affordable to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations.

It is the policy of the Commission that, in order to avoid stratification between information-rich and information-poor consumers, there should be a progressive expansion of the definition of basic service, as appropriate, and through the implementation of other policies, programs, and incentives to promote the deployment of advanced telecommunications technology to all customer groups.

It is the policy of the Commission to ensure that consumers have access to information needed to make timely and informed choices about basic service and that all customers have the flexibility to develop innovative strategies to contribute to the telecommunications market.

4. It is the policy of the Commission to provide consumers with the ability to choose among competing basic service carriers regardless of the technologies employed by the carriers who provide basic service.

5. It is the policy of the Commission to ensure that basic service carriers adhere to interconnectivity, interoperability, common carriage, reliability, privacy and security guidelines.

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6. It is the policy of the Commission to provide incentives and to promote deployment of advanced telecommunications technology to all customer segments, and to position health care, community, and government institutions to be early recipients of the benefits of the information age.

7. It is the policy of the Commission to provide a competitively neutral universal service mechanism which will minimize market distortions. The mechanism must provide for competitive provisioning of basic service, access to universal service funds, and a funding source which is broad-based and sustainable.

8. Objectives. For the purpose of this section, the following objectives apply to all telecommunications services. It is the objective of the Commission to develop a fully operable, competitively neutral universal service financing source and distribution mechanism no later than January 1, 1997. The funding mechanism must provide efficiency incentives to significantly reduce the aggregate subsidy required for universal service over time.

9. It is the objective of the Commission to adopt universal service policies which allow education, health care, community and government institutions to be in a position that allows them to be early recipients of the benefits of the information age.

10. It is the objective of the Commission to improve the subscriber rate of basic service to all customer groups, including low income, disabled, non-white, and non-English speaking households, by means of the following mechanisms:

a. All LECs and CLCs shall be responsible for pursuing the objective of achieving a 95% subscriber rate among all customer groups, including low income, disabled, non-white, and non-English speaking households in their service territories.

b. LECs and CLCs shall have the flexibility to develop innovative strategies to contribute to the attainment of this objective. It is the ability to choose among competing basic service in service territories where there is a substantial population of non-English speakers a carrier's efforts to communicate with such customers in their native languages shall be a factor that the Commission considers in assessing each local carrier's contribution to pursuit of universal service targets.

R.95-01-020, I.95-01-021 ALJ/JSW/gab/tAA ISO-10-00.1 ISO-10-00.1
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4. **BASIC SERVICE** The carrier shall be exempt from the above requirements if the carrier is providing local exchange residential service to a minimum of 100,000 residential lines. Carriers providing local exchange residential service shall, at a minimum, provide all elements of basic service, except as provided for in Rule 4.C. below.

B. Basic service includes the following service elements:
1. Except as provided for in paragraph 2 below, access to single party local exchange service;
2. Access to all interexchange carriers offering service to customers in a local exchange area (ISO-10-00.1 and ISO-10-00.2) will be provided to the carrier upon request.
3. Ability to place calls.

4. ability to receive free unlimited incoming calls;
5. free touch tone dialing;
6. free and unlimited access to 911/E911;
7. access to local directory assistance and access to foreign NPAs; and (d) to (p), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (aa), (ab), (ac), (ad), (ae), (af), (ag), (ah), (ai), (aj), (ak), (al), (am), (an), (ao), (ap), (aq), (ar), (as), (at), (au), (av), (aw), (ax), (ay), (az), (ba), (bb), (bc), (bd), (be), (bf), (bg), (bh), (bi), (bj), (bk), (bl), (bm), (bn), (bo), (bp), (bq), (br), (bs), (bt), (bu), (bv), (bw), (bx), (by), (bz), (ca), (cb), (cc), (cd), (ce), (cf), (cg), (ch), (ci), (cj), (ck), (cl), (cm), (cn), (co), (cp), (cq), (cr), (cs), (ct), (cu), (cv), (cw), (cx), (cy), (cz), (da), (db), (dc), (dd), (de), (df), (dg), (dh), (di), (dj), (dk), (dl), (dm), (dn), (do), (dp), (dq), (dr), (ds), (dt), (du), (dv), (dw), (dx), (dy), (dz), (ea), (eb), (ec), (ed), (ee), (ef), (eg), (eh), (ei), (ej), (ek), (el), (em), (en), (eo), (ep), (eq), (er), (es), (et), (eu), (ev), (ew), (ex), (ey), (ez), (fa), (fb), (fc), (fd), (fe), (ff), (fg), (fh), (fi), (fj), (fk), (fl), (fm), (fn), (fo), (fp), (fq), (fr), (fs), (ft), (fu), (fv), (fw), (fx), (fy), (fz), (ga), (gb), (gc), (gd), (ge), (gf), (gg), (gh), (gi), (gj), (gk), (gl), (gm), (gn), (go), (gp), (gq), (gr), (gs), (gt), (gu), (gv), (gw), (gx), (gy), (gz), (ha), (hb), (hc), (hd), (he), (hf), (hg), (hh), (hi), (hj), (hk), (hl), (hm), (hn), (ho), (hp), (hq), (hr), (hs), (ht), (hu), (hv), (hw), (hx), (hy), (hz), (ia), (ib), (ic), (id), (ie), (if), (ig), (ih), (ii), (ij), (ik), (il), (im), (in), (io), (ip), (iq), (ir), (is), (it), (iu), (iv), (iw), (ix), (iy), (iz), (ja), (jb), (jc), (jd), (je), (jf), (jg), (jh), (ji), (jj), (jk), (jl), (jm), (jn), (jo), (jp), (jq), (jr), (js), (jt), (ju), (jv), (jw), (jx), (jy), (jz), (ka), (kb), (kc), (kd), (ke), (kf), (kg), (kh), (ki), (kj), (kk), (kl), (km), (kn), (ko), (kp), (kq), (kr), (ks), (kt), (ku), (kv), (kw), (kx), (ky), (kz), (la), (lb), (lc), (ld), (le), (lf), (lg), (lh), (li), (lj), (lk), (ll), (lm), (ln), (lo), (lp), (lq), (lr), (ls), (lt), (lu), (lv), (lw), (lx), (ly), (lz), (ma), (mb), (mc), (md), (me), (mf), (mg), (mh), (mi), (mj), (mk), (ml), (mm), (mn), (mo), (mp), (mq), (mr), (ms), (mt), (mu), (mv), (mw), (mx), (my), (mz), (na), (nb), (nc), (nd), (ne), (nf), (ng), (nh), (ni), (nj), (nk), (nl), (nm), (nn), (no), (np), (nq), (nr), (ns), (nt), (nu), (nv), (nw), (nx), (ny), (nz), (oa), (ob), (oc), (od), (oe), (of), (og), (oh), (oi), (oj), (ok), (ol), (om), (on), (oo), (op), (oq), (or), (os), (ot), (ou), (ov), (ow), (ox), (oy), (oz), (pa), (pb), (pc), (pd), (pe), (pf), (pg), (ph), (pi), (pj), (pk), (pl), (pm), (pn), (po), (pp), (pq), (pr), (ps), (pt), (pu), (pv), (pw), (px), (py), (pz), (qa), (qb), (qc), (qd), (qe), (qf), (qg), (qh), (qi), (qj), (qk), (ql), (qm), (qn), (qo), (qp), (qq), (qr), (qs), (qt), (qu), (qv), (qw), (qx), (qy), (qz), (ra), (rb), (rc), (rd), (re), (rf), (rg), (rh), (ri), (rj), (rk), (rl), (rm), (rn), (ro), (rp), (rq), (rr), (rs), (rt), (ru), (rv), (rw), (rx), (ry), (rz), (sa), (sb), (sc), (sd), (se), (sf), (sg), (sh), (si), (sj), (sk), (sl), (sm), (sn), (so), (sp), (sq), (sr), (ss), (st), (su), (sv), (sw), (sx), (sy), (sz), (ta), (tb), (tc), (td), (te), (tf), (tg), (th), (ti), (tj), (tk), (tl), (tm), (tn), (to), (tp), (tq), (tr), (ts), (tt), (tu), (tv), (tw), (tx), (ty), (tz), (ua), (ub), (uc), (ud), (ue), (uf), (ug), (uh), (ui), (uj), (uk), (ul), (um), (un), (uo), (up), (uq), (ur), (us), (ut), (uu), (uv), (uw), (ux), (uy), (uz), (va), (vb), (vc), (vd), (ve), (vf), (vg), (vh), (vi), (vj), (vk), (vl), (vm), (vn), (vo), (vp), (vq), (vr), (vs), (vt), (vu), (vv), (vw), (vx), (vy), (vz), (wa), (wb), (wc), (wd), (we), (wf), (wg), (wh), (wi), (wj), (wk), (wl), (wm), (wn), (wo), (wp), (wq), (wr), (ws), (wt), (wu), (wv), (ww), (wx), (wy), (wz), (xa), (xb), (xc), (xd), (xe), (xf), (xg), (xh), (xi), (xj), (xk), (xl), (xm), (xn), (xo), (xp), (xq), (xr), (xs), (xt), (xu), (xv), (xw), (xx), (xy), (xz), (ya), (yb), (yc), (yd), (ye), (yf), (yg), (yh), (yi), (yj), (yk), (yl), (ym), (yn), (yo), (yp), (yq), (yr), (ys), (yt), (yu), (yv), (yw), (yx), (yy), (yz), (za), (zb), (zc), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zp), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz).

8. Lifeline rates and charges for eligible customers;
9. customer choice of flat or measured rate service;

10. free provision of one directory listing per year as provided for in D.96-02-072;

11. free white pages telephone directory;

12. access to operator services;

13. voice grade connection to public switched telephone network;

14. free access to 800 or 800-like toll free services;

15. one-time free blocking for information services and one time billing adjustments for charges incurred inadvertently, mistakenly, or that were unauthorized;

16. access to telephone relay service as provided for in PU Code 2881;

17. free access to customer service for information about ULTS, service activation, service termination, service repair and bill inquiries.

18. access to the number of the service or the number of the service.

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C. The seventeen smaller LECs shall be exempted from the basic service element that they be required to offer customers the choice of flat or measured rate service, unless the smaller LECs currently offer that option or are prohibited from doing so.

D. Periodic Review of Basic Service

Basic service includes the following elements:

1. Except as provided for in paragraph 2 below, petitioners may petition for review of the service elements which make up basic service three years after the conclusion of a review of basic service. (The adoption of final universal service rules in this proceeding (R.95-01-020 and I.95-01-021) will constitute the first review of basic service. The petition shall be filed on or before the 180th day before the review date.

2. Petitioners may petition the Commission to review the service elements which make up basic service at any time provided that the petitioner makes a prima facie showing that at least three of the four criteria contained in paragraph 3 below have been met. Petitions for review will be acted upon in accordance with subdivisions (c), (e), (f), (g), and (h) of Rule 47 of the Commission's Rules of Practice and Procedure.

3. In evaluating whether service elements should be added to or deleted from basic service the Commission will consider the following criteria:

- a. the service is essential for participation in society;
- b. a substantial majority, 65%, of residential customers subscribe to the service. Assess the following:
 - (1) availability of the service;

(2) the degree to which the service has been promoted by the carrier;

(3) the level of customer education which has been provided for the service;

(4) the communities which are presently being targeted for marketing and use of the service.

the qualitative and quantitative benefits of adding the service outweigh the costs;

- d. availability of the service, or the number of subscribers would not increase without intervention.

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no carrier responsible for ULTS service on
5. UNIVERSAL LIFELINE TELEPHONE SERVICE (ULTS)
effective date of this decision and to such extent as

A. Carrier Responsibilities

1. All carriers providing eligible low income customers with residential basic service, as defined in rule 4.B, shall have access to the ULTS fund.
Carriers are required to inform customers of the option for ULTS service when customers first inquire and sign up for basic exchange service and annually thereafter.
A carrier's ULTS rates shall be set in accordance with Public Utilities Code Section 874 and General Order (GO) 153, and in no event shall the carrier charge more than the statewide ULTS rate, as set by the Commission.

c. Carriers, on a per ULTS customer basis, shall be entitled to collect from the ULTS fund the difference between their tariffed rate for other residential customers for the corresponding service, and their ULTS rate.

d. Carriers must serve each eligible customer requesting Lifeline service within the carriers' specified serving area.

e. Pursuant to provisions established in GO 153, Resolution T-15826, and the workshops held on April 3, 4, and 5, 1995, carriers shall submit the required monthly report and claim statement for reimbursement in addition to the information required by GO 153, Resolution T-15826, and the April 1995 workshops. The monthly report shall include the number of ULTS customers served that month. The ULTS customer categories shall indicate the number of ULTS customers with measured service, and those with flat rate service.
Individual carriers will no longer be able to claim reimbursement for its marketing expenses associated with the ULTS program except as provided for below:

As ULTS advertising campaigns, outreach activities, and related marketing expenses, that are the subject of existing contracts which call for the continued display of commercial airtime of the advertising medium, or other continuing ULTS activities, after the effective date of this decision, shall continue to be reimbursed by the ULTS fund for the period called for in the contract or until three months from the effective date of this decision, whichever occurs first. It is our intent that there will be

R.95-01-020, I.95-01-021 ALJ/JSH/gab,*** ISO-10-20.1 ISO-10-20.1
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no carrier specific ULTS reimbursement for these kinds of activities after the third month from the effective date of the decision adopting this rule.

B. ULTS Funding Source

All telecommunications carriers are required to charge the appropriate ULTS surcharge, as set by the Commission, on all end users of telecommunications services, and to remit such monies to the ULTS program. The services excluded from the collection of the ULTS surcharge are those set forth in D.94-09-065 and D.95-02-050, specifically: ULTS billings, coin-sent paid calling, debit card messages, one-way radio paging, usage charges to COPTs, customers receiving services under existing contracts, that were executed on or before September 15, 1994 and directory advertising.

6. THE CALIFORNIA HIGH COST FUND: Identifying The Cost To Serve High Cost Areas

1. CHCF-B subsidies will vary according to the cost of providing service within a GSA.
2. The GSA is used for the purposes of identifying the cost of providing universal service to a particular area. A GSA shall serve as the GSA of a particular area.
3. Costs for providing customers with basic service in individual GSAs will be determined by factors which serve as proxies for the characteristics associated with the costs, including, but not limited to, population density and average loop length. The methodology for determining proxy costs and the initial proxy factors will be developed in the Cost Proxy Model.
4. The five large and midsize LECs shall be included in the CHCF-B. The seventeen smaller LECs shall be excluded from the CHCF-B and instead are eligible for high cost support through the CHCF-A. The mid-size LECs the program except as provided for below.

activities develop forward looking cost studies of their own; related marketing expenses, that for the subject of existing contracts which call for the continuing maintenance of the proxy costs developed by one of the large LECs, or other continuing ULTS program, shall continue the effective date of this decision, shall continue to be considered a high cost GSA if the cost of serving residential customers in that GSA is above the statewide average cost as generated by the CPM. It is our intent that there will be

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Carrier Responsibilities (b)

Carriers shall report the following information to the Telecommunications Division on a monthly basis:

- a. The number of eligible residential basic service lines being served by the carrier in each high cost area.
- b. An eligible residential basic service line is a line that is used to provide service to a residential customer in a high cost area.
- c. The rates for residential basic service the carrier is charging in each high cost area.
- d. A calculation of the subsidy amount that the carrier is claiming for providing its residential customers with basic service in each high cost area.
- e. Such other information as may be required by the Commission.

Subsidy Applicability

1. The CMCP-B will apply only to residential basic service, priced at the tariffed rate, in high cost GSAs. Only one residential line per household shall be subsidized. For purposes of this rule, the term "household" shall have the same meaning as provided for in General Order 1530. Carriers shall be required to obtain from their high cost area customers, a certification, in a form to be prescribed by the Commission, that the household is not presently receiving residential basic service through any other telecommunications carrier.
2. The subsidy that a designated COLR shall be entitled to will be based on the following:
 - (a) The benchmark will be defined as the greater of the statewide average cost as determined by the CPM, or the incumbent's flat rate plus EUCL.
 - (b) If the per line cost of serving a CBG exceeds the benchmark, the COLR will receive the difference between the benchmark and the per line CPM cost.
 - (c) In areas where the incumbent's flat rate plus EUCL is less than the benchmark, the COLR will receive the difference between the benchmark and the incumbent LEC's flat rate plus EUCL, in addition to the subsidy described in subdivision (2) above.

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- (d) The COLR's draw from the CHCF-B will be offset by the COLR's revenue per subsidized line from the CCLC and the federal Universal Service Fund. The amount of the offset will not exceed the amount of subsidy the carrier would have received without the offset.
- The incumbent LECs shall adjust the prices of all services, other than basic service, and rates covered by contracts that were executed on or before September 15, 1994, downward in an equal amount across all of those services to reflect the receipt of the explicit subsidy through the CHCF-B. The downward adjustment shall equal the subsidy support received by the incumbent LEC from the CHCF-B.
4. The Commission shall periodically review the subsidy in each GSA. The initial review shall take place in three years from the date of the establishment of the fund, and every three years thereafter.
- a. The review process may be in the form of an auction mechanism, with specific auction mechanism rules to be developed at a later time.
- b. Carrier of Last Resort. All of the incumbent LECs listed in Attachment A of these rules shall be designated as the COLR in all their respective service areas at least until such time that another carrier or carriers are designated as the COLR.
2. Other qualified CLCs may seek to become a designated COLR, or to compete in a GSA without being designated a COLR.
3. Only designated COLRs shall have access to the CHCF-B subsidy based on the number of residential customers that it serves in high cost GSAs.
4. Designated COLR NOI: Those CLCs seeking to be designated a COLR shall file an advice letter in compliance with GO 96-A, stating that the carrier intends to be designated a COLR. The advice letter shall become effective in 40 days from the date of filing unless a protest to the advice letter is filed. The advice letter shall contain a statement of the following which the Commission will consider in deciding whether the COLR status should be granted:
- a. the difference between the incumbent LEC's list rate plus EUC in addition to the facilities the carrier has in place or the arrangements that the carrier plans to enter into in order to provide basic service;

R.95-01-020, 1.95-01-021 TALJ/JSW/gab\A\A 150-10-20.1, 080 10-20.8
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None of the ability of the carrier to promote the goals of universal service to all customer segments throughout the COLR's service area.

5.6 A designated COLR shall be required to serve all customers upon request, both residential and business, and who are located within the COLR's designated service area as specified in subsection 6.1 below.

6.1 A designated COLR shall be required to serve the following:

a. Until such time as provided for in rule 6.D.1. above, all incumbent LECs in order to avail themselves of the subsidy for a high cost GSA, shall be required to serve all the high cost GSAs that are within the incumbent LEC's existing exchange area boundaries. All CLCs who are designated COLRs in order to avail themselves of the subsidy for a particular high cost GSA, shall be required to serve the entire GSA(s) that is (are) within the CLC's designated service territory for which it has elected COLR status.

7. A designated COLR may opt out of its obligations in a GSA by advice letter, unless it is the only carrier remaining in the GSA, in which case it must file an application to withdraw as the COLR and continue to act as the COLR until the application is granted or a new COLR has been designated as a result of an auction.

8. Competitive Bidding to Serve As The COLR

1. If there is only one carrier in a GSA and that carrier has filed an application to withdraw as the COLR in that GSA, and no other provider is willing to assume the COLR responsibility at the current subsidy level:

a. The Commission will initiate an auction whereby service providers shall bid on the amount of subsidy each would require to operate as the COLR. Such auction will be held within 180 days from the time the application to withdraw as the COLR is filed.

b. The qualified bidder who places a bid representing the lowest amount of subsidy required to offer service in the GSA would become the subsidized COLR for a period of three years. Competitive entry would be allowed, but only 1/2 the subsidy would be available to the competitor.

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2. A COLR who loses the bid shall have the option to sell its facilities in the area to any interested party.

3. 180 days prior to the expiration of the three-year COLR obligation, all carriers desiring to become a designated COLR in the GSA shall file applications stating their intention to become the designated COLR for that particular service area. The Commission will then determine whether the same designated COLR should be retained at the current subsidy, whether multiple carriers of last resort should be permitted and at what subsidy amount, or if another auction should be held.

F. Funding The CHCF-B shall be funded by the Commission. The Commission will require all providers of telecommunications services to pay the CHCF-B surcharge except for: ULTS billings, coin sent paid calling, debit card messages, one-way radio paging, usage charges for customers receiving services under existing contracts that were executed on or before September 15, 1994, and directory advertising.

2. All telecommunications carriers are required to charge the appropriate CHCF-B surcharge, as set by the Commission, on all end users of telecommunications services in accordance with Rule 16F.1 above.

3. The Commission shall be the administrator of the CHCF-B mechanism until such time the Commission may decide otherwise.

4. The Commission will calculate each carrier's support from the CHCF-B and distribute the appropriate amount to the carriers.

9.2 Distributing The CHCF-B In A Resale Environment

1. If resale of basic exchange service or loops is allowed, the subsidy for residential basic exchange service for that customer shall be treated as follows:
a. If the price of the service or facility resold is below its cost, the underlying facilities based on the provider receives the subsidy for the services sold.

b. If the price of the service or facility resold is at or above market based or based upon actual deaveraged costs, then the carrier who sells basic exchange service to the end user residential customer shall receive the subsidy, provided that the basic residential service is priced at the affordable (but below cost) price set by the Commission.

R.95-01-020, I.95-01-021 ALJ/JSW/gab/t* ISO TO 22.1 OSO TO 22.8
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7. UNIVERSAL SERVICE WORKING GROUP

(a) The Commission shall form the Universal Service Working Group (USWG).

B. The purpose of the USWG shall be to address ways in which access and deployment of advanced telecommunications technologies can be provided to all customer segments, and how education, health care, community, and government institutions can be positioned to take advantage of these technologies.

C. The Steering Committee of the USWG shall be composed of 24 members. There shall be eight representatives from the telecommunications industry, representing a spectrum of telecommunications carriers. There shall be two representatives each from the following kinds of concerns: education, health care, community, libraries, and local government; for a total of ten representatives. There shall be two representatives from the business sector, two representatives from the disabled community, and one representative from another state agency.

D. The USWG will be funded at \$250,000 per year for a period of two years from monies in the California Teleconnect Fund. These funds are intended to provide administrative support, and reimbursement for a participant's reasonable expenses related to their participation in the USWG. Absent Commission action, the USWG shall terminate on December 31, 1998.

4. The Steering Committee of the USWG shall prepare an annual report of a summary of the USWG meetings, their objectives, the issues raised, their accomplishments, and their recommendations. The report shall be submitted to the Commission, and forwarded by the Commission to the Legislature for their information.

8. (b) DISCOUNTS TO CERTAIN ENTITIES

A. In response to the Telecommunications Act of 1996, and the principles expressed in AB 3643, a program of rate discounts for certain kinds of qualifying entities shall be created and funded through the California Teleconnect Fund. Nothing in this rule precludes a carrier from offering a larger discount than what is provided for in this rule.

B. Qualifying schools and libraries shall be entitled to a discounted rate for measured business service, switched 56, integrated services digital network (ISDN) service, T-1 service, and DS-3, or their functional equivalents, and such other services that the Federal Communications Commission (FCC) may determine are appropriate.

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- (1) Only public or nonprofit schools providing elementary or secondary education, and which do not have endowments of more than \$50 million, shall qualify for the discounted rates for schools. (220) quote
- (2) Only those libraries that are eligible for participation in state-based plans for funds under Title III of the Library Services and Construction Act (20 USC §3350 et seq.) shall qualify for the discounted rates for libraries.
- (3) All carriers offering the services listed in subdivision B above, shall provide in their tariffs that the rates for qualifying schools and libraries for such services shall be 50% below the rates charged to other businesses for those services.
- (4) There is no limit on the number of subsidized lines that a school or library can have.
- (5) Qualifying municipal and county government owned and operated hospitals and health clinics shall be entitled to a discounted rate for switched 56K ISDN, T-1, and DS-3, or their functional equivalents.
- (1) All carriers offering the services listed in this subdivision, shall provide in their tariffs that the rates for qualifying government owned hospitals and health clinics for such services shall be 20% below the rates charged to other businesses for those same services, or their functional equivalents.
- (2) Qualifying community based organizations (CBOs) shall be entitled to a discounted rate for switched 56K ISDN service, and T-1 or their functional equivalents.
- (1) Only a tax exempt organization offering health care, job training, job placement, or educational instruction, shall qualify for the discounted rates for CBOs. A "tax exempt organization" shall refer to an organization described in Section 501(c)(3) or 501(d) of the Internal Revenue Code, Title 26 of the United States Code.
- (2) In order to qualify for the CBO discount, the CBO must provide proof at the time of application that it is a tax exempt organization, and that it offers health care, job training, job placement, or educational instruction.
- (3) All carriers offering the services listed in this subdivision, shall provide in their tariffs that the rates for qualifying CBOs for such services shall be 25% below the rates charged to other businesses for those same services, or their functional equivalents.

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(4) The CBO shall be limited to a total number of two switched 56 lines or their functional equivalents; two ISDN lines or their functional equivalents; one switched 56 line or its functional equivalent; and one ISDN line or its functional equivalent, or one T-1 line or its functional equivalent.

B. Carriers who provide the above-referenced entities with those discounted services shall receive a subsidy for each qualified entity that it serves. The subsidy amount shall be: (1) the difference between the tariffed rate for such services and the tariffed discount rate; or (2) if the rate negotiated is below the tariffed discount rate, the carrier shall be entitled to the sum that represents the percentage discount off of the negotiated rate.

F. These discounted rates may not be resold to, or shared with, any other non-qualifying entity or person.

G. Funding The California Teleconnect Fund

The Commission will require all end users of telecommunications services to contribute to the California Teleconnect Fund, except for: 911 calls, billings, coin-sent paid calling, debit card messages, one-way radio paging, usage charges to COPTs, customers receiving services under existing contracts that were entered into on or before September 15, 1994, and directory advertising.

2. All telecommunications carriers are required to charge the appropriate California Teleconnect Fund surcharge, as set by the Commission, on all end users of telecommunications services in accordance with Rule 8.G.1. above.

3. The Commission shall be the administrator of the California Teleconnect Fund until such time the Commission may decide otherwise.

4. Carriers supplying telecommunications services to qualifying institutions and organizations at discounted rates shall report the information required by the Commission to the Telecommunications Division on a monthly basis.

5. The Commission will calculate each carrier's support from the California Teleconnect Fund, and distribute the appropriate amount to the carriers.

R.95-01-020, I.95-01-021 ALO/JSW/gab/VA 150-10-20.1, 050-10-20.1
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9. CONSUMER INFORMATION RULE

A. The Commission shall compile an annual report that summarizes the complaint history of each certificated carrier, and any open investigations into such carrier. Such report shall be made available to the public.

B. All LECs and CLCs must provide the applicable information contained in subsection 0. below to residential consumers: (1) whenever any marketing information regarding a telecommunications service offering described in the matrix is mailed to residential customers; or (2) upon request by a consumer. The required consumer information must be on a separate sheet, and contain the following statement at the beginning: The following information is required by the California Public Utilities Commission to allow comparisons with rates charged by other carriers for the same type of service.

C. The required consumer information shall consist of the following:

*The following information is required by the California Public Utilities Commission to allow comparisons with rates charged by other carriers for the same type of service:

coin-sec dial calling, debit card messages, one-way radio paging, usage charges to 100% customers receiving service under existing contracts that were entered into on or before September 17, 1994, and directory advertising.

8. All telecommunications carriers are required to charge the appropriate California Teleconnect Fund surcharge, as set by the Commission, on all end users of telecommunications services in accordance with Rule 8.6.1. above.

7. The Commission shall be the administrator of the California Teleconnect Fund until such time the Commission may decide otherwise.

6. Carriers supplying telecommunications services to qualifying institutions and organizations at discounted rates shall report the information required by the Commission to the Telecommunications Division on a monthly basis.

5. The Commission will calculate each carrier's support from the California Teleconnect Fund, and distribute the appropriate amount to the carriers.

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176 LOCAL CALLS: (Name of Carrier) local calling area consists of any calls within a _____ mile radius of the rate center for your location.

SERVICE	DESCRIPTION OF SERVICE	INSTALLATION FEE	COST PER MONTH	COST PER MINUTE
Flat Rate Service	Set monthly rate for unlimited local calling in your local calling area.	\$ _____	\$ _____	N/A
Measured Rate Service	A reduced monthly rate plus per-minute charges for each local call above a minimum \$ _____ allowance.	\$ _____	\$ _____	After \$ _____ 1st min./each addit. min. Day: _____ Evening: _____ Night/Weekend: _____
Universal Lifeline Telephone Service	Low priced service for qualifying customers on a limited income.	\$10.00	Limited to _____	(ULTS)
Flat Rate ULTS	Unlimited local calling	\$ _____	[Not to exceed \$5.62]	N/A
Measured Rate ULTS	60 untimed local calls. After 60 calls, a per call charge of _____ cents.	\$ _____	[Not to exceed \$3.00]	After 60 calls: _____ cents

R.95-01-020, I.95-01-021 ALJ/JSW/gab/t* ISO-10-20.1 OSO-10-20.1
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2. TOLL CALL/INTRALATA TOLL CALLS: A toll call, or what is sometimes referred to as intralATA toll call, consists of any call made beyond your local calling area, but within your Local Access Transport Area (LATA) of any toll service area and to either area or within area.

SERVICE	DESCRIPTION OF SERVICE	INSTALLATION	COST PER MONTH	COST PER MINUTE
InterLATA Toll Call	A call made beyond your local calling area, but within your LATA.	N/A	N/A	[carrier to describe rate structure by variables used such as time, distance, charge for first minute and each additional minute.] *

3. LONG-DISTANCE CALLS/INTERLATA CALLS: A long distance call, or what is sometimes referred to as an interLATA call, consists of a call made outside your LATA.

SERVICE	DESCRIPTION OF SERVICE	INSTALLATION	COST PER MONTH	COST PER MINUTE
InterLATA Toll Call	Calls made outside your LATA	N/A	N/A	[carrier to describe rate structure by variables used such as time, distance, charge for first minute and each additional minute.] *

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4. OTHER CHARGES: ATTACHED

<u>CHARGE</u>	<u>WHEN ASSESSED</u>	<u>AMOUNT</u>
Late Payment Charge	Payment not received by due date.	\$
Returned Check Charge	Customer's check returned to the carrier from the bank.	\$
Switching Fee	Charge for changing long distance carrier.	\$
Reconnect Charge	Charge for reconnecting service after service has been terminated for late payment.	\$

*This informational brochure does not reflect the prices associated with the various kinds of discount calling plans that might be offered.

Price information current as of [month, date, and year]."

(END OF APPENDIX B)

1. Now known as Citizens Telecommunications Company of the Golden State.
 2. Now known as Citizens Telecommunication Company of Indiana.

R.95-01-020, I.95-01-021 ALJ/JSW/gab/VJA 100-10-20.1, 100-10-20.2
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ATTACHMENT A

Calaveras Telephone Company
California-Oregon Telephone Company
Citizens Telecommunications Company of California Inc.
Contel of California, Inc.
CP National
Ducor Telephone Company
Evans Telephone Company
Foresthill Telephone Company
GTE California Incorporated
GTE West Coast Incorporated
Happy Valley Telephone Company
Hornitos Telephone Company
Kerman Telephone Company
Pacific Bell
Pinnacles Telephone Company
The Ponderosa Telephone Company
Roseville Telephone Company
Sierra Telephone Company, Inc.
Siskiyou Telephone Company
Tuolumne Telephone Company
The Volcano Telephone Company
Winterhaven Telephone Company

(END OF APPENDIX B)

1 Now known as Citizens Telecommunications Company of the Golden State.

2 Now known as Citizens Telecommunication Company of Tuolumne

EXHIBIT B

COM/MP1/gd2/lil

Date of Issuance 12/24/2012

Decision 12-12-038 December 20, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding
Revisions to the California High Cost
Fund B Program.

Rulemaking 09-06-019
(Filed June 18, 2009)

DECISION ADOPTING BASIC TELEPHONE SERVICE REVISIONS

R.09-06-019 COM/MP1/gd2/lil

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DECISION ADOPTING BASIC TELEPHONE SERVICE REVISIONS

1. Introduction

By this decision, we adopt updated requirements for residential basic telephone service (basic service). Appendix A contains the updated list of service elements that comprise residential basic telephone service, along with the related requirements for offering these service elements. Although today's telecommunications marketplace offers an increasingly diverse range of products and technology options to consumers, the scope of this decision addresses only those basic telecommunications services, defined as those services essential to meet universal service needs.¹ Although the term "basic telephone service" appeared in many Commission decisions over the years, the Commission formally defined what the term meant for the first time in Decision (D.) 96-10-066. As stated in D.96-10-066, a uniform definition of basic service is important so that all residential telephone customers, no matter where they live in California, can expect a certain minimum level of service. Our updated basic service definition shall apply to any telephone corporation serving as Carrier of Last Resort (COLR) and/or offering Universal Lifeline Telephone Service within California.² The adopted basic service elements are designed to apply on a technology-neutral basis to all forms of communications technology that may be utilized, including wireline, wireless, and Voice over Internet Protocol (VoIP) or

¹ The principles underlying the California Public Utilities Commission's (CPUC or Commission) universal telephone service goals within a competitive environment are set forth in detail in D.95-07-050 (60 CPUC2d, 536, 546-547.)

² A "telephone corporation" is defined in Public Utilities Code Section 234 to include every corporation or person owning, controlling, operating, or managing any telephone line (with or without the use of transmission wires) for compensation within California.

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any other future technology that may be used in the provision of telephone service.

Under Commission rules set forth in D.96-10-066, COLR status is required to receive California High Cost Fund-B (CHCF-B or B-Fund) support.³ The CHCF-B program supports the Commission's universal service goal to keep basic telephone service affordable. A COLR must offer basic service to all residential customers within its designated service territory, including those areas that are more costly or difficult to serve. Prior to the B-Fund, a system of implicit cross-subsidies kept basic rates affordable.⁴ By replacing these implicit subsidies with an explicit subsidy fund, the CHCF-B was designed to facilitate competitive pricing for services other than basic service, while preserving the affordability of essential basic service.

The basic service obligation applies on a statewide basis to all telecommunications carriers wishing to offer basic residential telephone service. Accordingly, the basic service obligation applies, not just in regions subject to high-cost support, but throughout California.

Another important universal service program designed to preserve the availability of basic telephone service to low-income customers at affordable

³ The rights and responsibilities of a carrier of last resort are set forth in D.96-10-066, Appendix B.6.D. attached hereto for reference purposes as Appendix C. Pursuant to Public Utilities (Pub. Util.) Code Section (§) 739.3, the CHCF-B was established in 1996 as part of a broader policy to ensure that universal telephone service continued to be available as local markets were opened to competition.

⁴ Because the Incumbent Local Exchange Carriers (ILECs) basic rates were set based upon an average between high and low cost areas, including profitable and less-profitable areas, basic residential rates in High-Cost areas were internally subsidized by revenues from more profitable exchanges, subsidies between product lines, and from other sources of revenues. (See D.95-07-050; 60 CPUC2d, 536, 546.)

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prices is Universal Lifeline Telephone Service.⁵ Any carrier that seeks Lifeline support even if they are not a COLR, must offer the basic service elements as specified in Appendix A. Our revised definition adopted in Appendix A shall apply to Lifeline service as a starting point subject to further analysis and possible refinements that the Commission may consider in the Lifeline Rulemaking (R.) 11-03-013. Some households that qualify for Lifeline discounts may need telephone service that differs in important respects from the basic service elements in Appendix A. We thus find it in the public interest to provide additional flexibility in the manner in which carriers must provide basic service to qualify to receive support for discounted Lifeline services. The Commission may add, subtract, or refine the elements a California Lifeline Service Provider is required to offer its California Lifeline subscribers in the Lifeline proceeding (R.11-03-013), depending on the record developed therein. Our intent in this regard is to provide low-income customers with a broader range of flexibility for discounted Lifeline options, consistent with their Lifeline service needs and appropriate consumer protections.

A comprehensive definition of “basic telephone service” was last adopted in D.96-10-066. Pursuant to Pub. Util. Code § 1708, by ruling dated May 28, 2008, parties in R.06-06-028 were served notice with opportunity to comment that basic service definitions in D.96-10-066 may be modified.⁶

⁵ The Lifeline program was established in 1984 (D.84-11-028) to comply with the Moore Universal Telephone Service Act, Pub. Util. Code §§ 871-884 as a means to provide affordable basic residential telephone service to low-income households.

⁶ Pub. Util. Code § 1708 states: “The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision.”

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The definition of basic service was established in the mid-1990s, and has not been updated until now. When the Commission last adopted a basic service definition, competition within the wireline local exchange market had not yet fully commenced. Wireless service subscriptions were still nascent, and VoIP services were not readily available to residential consumers. The definition adopted in D.96-10-066 was based on wireline exchange technology offered by the large ILECs,⁷ the small regional Local Exchange Carriers (LECs),⁸ and competitive local exchange carriers (CLECs).⁹

Today's decision updates the basic service definition, recognizing the increasing diversity of choices among communications technologies since the 1990s. Our updated definition is designed to promote competition by technological neutrality while preserving the essential consumer protections.

The Consumer Bill of Rights, adopted in GO 168, asserts that consumers have a right to receive clear and complete information about all material terms and conditions, such as material limitations, for products and service plans they select or for which they request information. It also provides that consumers have a right to clear and complete disclosure of material limitations on access to 911 emergency services.

We recognize that many factors may affect a customer's ability to make and receive voice connections when utilizing wireless devices, as discussed in

⁷ An ILEC is a local telephone corporation that was the exclusive certificated local telephone service provider in a franchise territory established before the federal Telecommunications Act of 1996 and is now regulated under the Uniform Regulatory Framework, as established in D.06-08-030. (See Pub. Util. Code §§ 234 and 1001.)

⁸ The Commission regulates the small regional LECs through cost-of-service reviews as required by General Order (GO) 96-B.

⁹ The Commission regulates CLECs under rules established in R.95-04-043/I.95-04-044.

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Section 4.1 below. Other factors that may affect a customer's ability to make and receive voice connections, regardless of technology, include natural disasters such as hurricanes, floods, and fires; or security breaches of the communications or electrical infrastructure.

To ensure that customers can make fully informed choices regarding the communications services that best meet their needs, with full knowledge of the tradeoffs among the benefits and limitations of different communications technologies, we require all companies offering basic service to provide customers and potential customers with information regarding 911 reliability and accuracy, as well as clear and conspicuous disclosures of the capabilities and material limitations in service coverage, service availability, and service quality. These information disclosures must be offered in a form that is readily accessible and available to existing and prospective customers. The disclosures must be of sufficient clarity and detail to enable customers to make an informed choice as to whether the service coverage, availability, reliability, and quality being offered is sufficient and suitable to meet the customer's expectations and needs.

To help achieve our goal of promoting informed consumer choice, we also direct the Communications Division to insure that the marketing for the California Lifeline program include information and educational materials explaining the capabilities and limitations of the communications technologies that Lifeline supports. These materials should reference Consumer Affairs Branch complaint data wherever possible.

2. Procedural Background

This rulemaking (successor to Rulemaking (R.) 06-06-028) was instituted to reform the California High Cost Fund-B program (CHCF-B or B-Fund) program. This phase of the proceeding focuses on basic telephone service revisions on a

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statewide basis. The record underlying this decision was compiled through written comments, working group meetings, and public participation hearings. The California Public Utilities Commission (CPUC or Commission) undertook a review to update the definition of basic telephone service, initially in the context of instituting reforms to the B-Fund Program. On June 29, 2006, we opened R.06-06-028 to review and to institute reforms to the B-Fund program and to respond to concerns as to the size of the B-Fund.

In Decision (D.) 07-09-020, (in R.06-06-028), the Commission adopted various reforms to the B-Fund program, including scaling back the magnitude of the B-Fund by imposing more restrictive eligibility thresholds for receiving B-Fund support and by reducing the number of regions eligible for B-Fund support. Although adopting these restrictions significantly reduced the number of regions eligible for B-Fund support, the remaining regions still eligible for support amounts are based on cost proxy data from 1996.

In D.96-10-066, the Commission identified high-cost areas by estimating costs within “Census Block Groups” (CBGs) of the 1990 census where the cost of basic telephone service exceeded the system average cost in the territories of the large and mid-sized Local Exchange Carriers (LECs). Since these cost proxies were adopted more than 15 years ago, the state’s demographics, CBGs, communications technologies and costs of providing service in high-cost areas have changed considerably. As a result, as noted in D.07-09-020, the cost proxies used in the B-Fund support calculations may have grown increasingly outdated.

As a basis for continuing support in high-cost areas, the Commission concluded in D.07-09-020 that a new approach was needed to determine relevant cost data for purposes of supporting the provision of basic service through the B-Fund. Rather than relying on technology-specific cost proxy models as a basis

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to determine high-cost funding levels, we sought to move toward market-based approaches that are unbiased toward any particular carrier or technology.

The Commission thus sought to design and implement a reverse auction process whereby carriers would competitively bid for the right to receive B-Fund support. The Commission sought to rely upon competitive bids as a way to determine high-cost support instead of conducting and litigating cost studies.

Initial comments on reverse auction design issues were filed on November 9, 2007, with reply comments on November 28, 2007. By ruling dated December 13, 2007, Working Groups were established to formulate recommendations for a reverse auction process. Working Group progress reports were issued on February 21, 2008, and May 1, 2008.

The Working Groups requested Commission guidance on certain threshold issues before pursuing further discussions. Opening and reply comments on threshold issues were filed on June 24, 2008 and on July 15, 2008, respectively. The general consensus was that the first issue that required resolution was an updated definition of basic telephone service. The assigned Commissioner thus determined that an updated definition of “basic service” requirements should be resolved as a priority before proceeding further with steps to update the high-cost levels and support, whether by reverse auction or by other means.¹⁰

While the process to update the basic service definition continued, a successor rulemaking was opened on June 18, 2009. The successor R.09-06-019 was tasked with continuing with reform of the B-Fund program. In a ruling

¹⁰ The question of whether to pursue implementation of a reverse auction remains a point of controversy. In this decision, we make no prejudgment concerning the merits of pursuing a reverse auction.

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dated February 11, 2010, assigned Commissioner Bohn solicited comments on the advisability of continuing pursuit of a reverse auction, and concurrently issued proposed revisions to the basic service definition. The ruling also recognized the need to update the definition of basic telephone service in the reform of the Lifeline program, but deferred consideration of Lifeline issues to the Lifeline Docket, R.06-05-028.

The assigned Commissioner Bohn subsequently determined ,however ,that rather than considering separate revisions to “basic service” for service in B-Fund regions versus for any statewide offering of Lifeline service, all revisions to basic service should be addressed comprehensively in R.09-06-019.¹¹ In this way, the effects on Lifeline, the B-Fund, and any other basic service obligations could be addressed in a coordinated manner.

By ruling dated December 24, 2010, a series of public participation hearings (PPHs) were scheduled at locations throughout California to provide an opportunity for public input on changes in the basic service definition. These PPHs were held during March 2011. On April 27, 2011, then assigned Commissioner Peevey issued a revised draft proposal for basic service revisions. Parties filed comments on the draft proposal on May 16, 2011, and reply comments on May 31, 2011. In that April 27, 2011, Ruling, we made clear that one of our objectives was to “Maintain essential services and avoid degrading existing basic services or standards.”

Comments on proposed basic service revisions have been filed by the incumbent LECs: Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Verizon California Inc. (Verizon), SureWest Telephone (SureWest), and Citizens Telecommunications Company of California Inc, d/b/a Frontier

¹¹ By Amended Scoping Memo issued on May 10, 2010.

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Communications Company of California. Comments were also filed by the small regional LECs and by parties representing other carriers' interests including Sprint Nextel, Time Warner Telecom of California, L.P, the California Cable and Telecommunications Association, Cox California Telecom LLC (Cox), Omnipoint Communications, Inc. (d/b/a T-Mobile), and Cricket Wireless.

Comments representing consumers' perspectives have been filed by the Division of Ratepayer Advocates (DRA), and jointly by The Utility Reform Network (TURN), Disability Rights Advocates, and the National Consumer Law Center.

3. Overview of Revisions to Basic Service Definition

Based on the comprehensive record, we hereby adopt the revised definition of residential basic telephone service set forth in Appendix A of this decision. In revising the definition, we also consolidate the existing elements into a more concise listing.¹² To the extent a carrier offers basic service, it must be offered on a nondiscriminatory basis to all residential households within the service provider's defined service territory.

In keeping with the essential nature of basic service, we require that all basic service providers must file and maintain tariffs or schedules with the Commission by a Tier 2 Advice Letter for its basic service offerings which must include its basic service rates, charges, terms, and conditions; and must make them publicly available. If a carrier chooses to offer basic service in all or part of its service territory using multiple, different technologies, each type of offering

¹² For ease of comparison between the service elements defined in D.96-10-066 and the revised list adopted in this decision, we provide a cross-reference of the prior and current elements by description and number in Appendix B of this decision.

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must be tariffed or scheduled with the Commission. This requirement does not extend beyond basic service.

Each basic service provider must clearly inform all potential residential subscribers who contact the provider of their option to purchase basic service prior to initiating service. A provider must not represent to customers, or in advertising or by any other means, that any services, service elements, or service conditions, except those authorized by the Commission, constitute basic service in California. Carriers providing basic service must offer an option with monthly rates and without contract or early termination penalties.

Although basic service offerings must include the elements set forth in Appendix A, a carrier may elect also to offer added features and/or enhanced service elements without additional charge(s) as part of a basic service offering. The basic service provider must not, however, obligate the customer to subscribe to service bundles that require subscribing to video and or data services, as a condition of receiving basic telephone service. There is no restriction on offering customers such bundled service packages, provided that the customer is offered the option of subscribing to telecommunications services without being forced also to subscribe to bundled video or data services.

While carriers may offer basic service in conjunction with larger or enhanced service bundles, the carrier must not represent that any such additional services constitute “basic service” as defined by the Commission. At a minimum the service elements in the following section must be offered by any telephone corporation providing basic service within California. These revised basic service elements do not impose an obligation to provide basic service upon any carrier where no such obligation exists today. Nor do they prohibit a carrier from electing to provide additional elements as part of its basic service offering.

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Any carrier may use any technology to satisfy any obligation to provide basic service as detailed below.

As a framework for adopting basic service revisions, we apply guiding principles and criteria designed to:

- a. Consolidate and streamline existing listings of service elements.
- b. Apply technology-neutral terminology and definitions.
- c. Preserve standards necessary to meet essential universal service needs while not degrading existing basic service or standards.

An appropriate definition of basic telecommunications service is fundamental in supporting the Commission's goal of universal service, grounded in essential consumer protections providing:

- a minimum level of telecommunications services available to virtually everyone in the state, i.e., there is ubiquitous presence of telecommunications services throughout the state, and
- that the rates for such services remain reasonable.

Consistent with our universal service goals, we previously defined basic service as consisting of those communications needs essential for participation in modern society. In D.95-07-050, we characterized basic service as the minimum level of service that consumers had come to expect, or services that are essential to all residential telephone customers. A provider can always offer more than what the basic service definition provides. (60 CPUC2d, 536, 549).

Our revised definition continues to uphold these same guiding principles, preserving essential consumer protections while also being flexible to accommodate evolving marketplace technologies and differences in how basic service may be offered. The revised definition focuses on meeting the end-user

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customer's service needs rather than the specific technology used to provide it. Setting an appropriate definition thus requires a balanced approach, as noted in D.96-10-066:

If the service definition is too narrowly drawn, some service elements that may be essential for participation in society may only be enjoyed by those who can afford it. Or, certain urban areas of the state may enjoy some essential service elements that customers in more rural areas may not have. In balancing what services elements should be included in the definition of basic service, the Commission must also be cognizant of the extra cost. If too broad of a definition is adopted, consumers may end up paying for services that they do not need or want.¹³

Although communications technologies and regulatory rules have evolved since 1996, consumers are still entitled to basic service elements essential for their participation in society. Different modes of technology may accommodate variations in how basic service is provided. A definition designed to be technologically and competitively neutral, however, does not require that all modes of technology provide basic service in identical fashion. The adopted definition must be broad enough to accommodate variations in service features and billing arrangements. As technology and network architecture varies, the trade-offs of competing basic service options may also vary. At the same time, a technology-neutral definition does not mean settling for the lowest common denominator of service standards. Allowing such degradation in standards would undermine principles of universal service. Essential basic needs, particularly among the most vulnerable segments of the customer base (e.g., the elderly, those with disabilities, low-income segments, etc.) must continue to be met consistent with the Commission's universal service policies.

¹³ 68 CPUC2d; 542, 549.

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Various parties argue that changes in technology and consumer behavior since the mid-1990s warrant eliminating service elements previously deemed essential for participation in society. To evaluate this argument, we consider the relevant data relating to the contemporary essential needs of consumers. Parties representing industry interests point to increasing numbers of consumers abandoning landline in favor of other communications technology alternatives, particularly wireless. Such parties infer that this trend toward use of wireless as a primary or sole source of communications indicates that residential consumers, in general, no longer require many currently available basic service elements.

Based on the growing use of wireless or broadband technologies, various carriers thus argue that existing basic service standards should no longer be required nor imposed. Verizon, for example, points to the diversity of products offered by wireless service in addition to mobility, including voice mail, texting and smart phones that provide broadband connectivity allowing music, video and other valued applications.

Verizon's recitation, however, blurs relevant distinctions between basic essentials and more diverse service options. We recognize that modern communication preferences and expectations among consumers reflect a diverse spectrum. The growing demand for this broader diversity of communications services is separate and distinct from the continuing need for essential basic service elements upon which a significant sector of consumers rely. The growing demand for music and video communications does not eliminate the need for basic service elements among those who rely upon them.

Likewise, the statistics showing increasing numbers of customers migrating toward wireless service does not negate the importance of existing basic service features for the majority of consumers. The relevant data source for

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identifying basic service needs is the 95% share of residential market penetration that represents the Commission's universal service goal. By contrast, less than 50% of California consumers have chosen to discontinue wireline service. While a growing number of consumers may be willing to give up some basic service elements in favor of current wireless offerings, this minority does not determine the preferences or needs of customers that continue to rely upon basic service.

The principles of universal service extend to all segments of the public, not just the technologically sophisticated whose calling needs may be met by wireless or other alternative technologies. In particular, many among the elderly, disabled, economically disadvantaged, or non-English-speaking sectors may exhibit different needs compared to younger, technologically sophisticated, or more affluent sectors. As expressed by speakers at the PPHs held during March 2011, more vulnerable sectors of the public are not prepared or equipped to forfeit current protections offered through wireline basic service. Also, consumers in urban settings with multiple telecommunications choices face different constraints compared with those residing in rural or remote regions with fewer or only one choice of provider for basic service.

For many, the choice is not an either-or alternative between wireline versus wireless. Most Californian consumers today own both a wireline and a wireless phone. Wireline and wireless services may be complementary rather than complete substitutes for each other.

As noted in the Federal Communications Commission's (FCC) report on wireless markets for the first half of 2009, 22.7% of households were wireless only, up from 17.5% a year earlier, and 13.6% a year before that. Also, as noted in the CPUC Staff Report on Affordability of Telephone Service, on a statewide basis, of the households subscribing to landline, 24% of the households are

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landline only, and 76% subscribe to both landline and wireless. In CHCF-B areas only 13% of households rely solely on landline and 87% of households subscribe to both landline and wireless services. Similarly, statewide Lifeline subscribers rely upon landline only service more so than those in CHCF-B areas. Of the statewide survey households subscribing to LifeLine, 49% have wireless, while 83% of the non-LifeLine customers have wireless.

These statistics signify that while a majority of the consuming public utilizes wireless communications, most wireless customers still concurrently subscribe to basic service. Consequently, these statistics indicate that most customers still value features currently available through wireline basic service that may not otherwise be available through a current wireless service plan. Accordingly, while these statistics indicate a growing use of wireless, current wireless service plans — without wireline at least as a back up — are still not exclusively meeting most consumers' basic service needs. The protections offered by basic service as set forth in Appendix A thus remain essential in meeting universal service goals.

Certain parties characterize as outdated or “legacy Incumbent Local Exchange Carriers (ILEC)-centric” a definition of basic service that retains the existing elements in the definition. The essential principle that guides any revisions in the definition does not depend on whether the service is provisioned by an ILEC or another technology. The relevant factor is what a consumer needs today in terms of essential service features in today's competitive marketplace irrespective of network architecture or technology. Although the essential basic service protections have traditionally been offered principally by the ILEC through wireline circuit-switched technology, the type of the network architecture used is not the determining factor in defining basic service needs.

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Even with the current limitations in participation in the B-Fund and Lifeline programs, the market is still providing customers with a growing array of communications technologies through different types of service options. Adopting the revised basic service definition set forth herein will not diminish the growing array of alternative service and technology options that are available. Even to the extent that competitive providers choose not to meet the requirements for basic service, they retain the same competitive opportunities currently available in offering an array of consumer choices.

Certain parties argue that the basic service definition should be revised to conform to FCC universal service requirements. We conclude that it would be inappropriate to simply adopt the FCC-jurisdictional definitions for purposes of our updated basic service definition. The FCC definitions as presented in parties' comments lack sufficient detail or clarity to apply for our purposes here without further elaboration. Moreover, parties' proposal relied upon FCC service element definitions that have since been revised.

Relying on the FCC's definition as presented in parties' comments would still require this Commission to fill in the details associated with what many of the FCC's components would mean for a Carrier of Last Resort (COLR).

In any event, we choose to address the merits of each service element rather than simply discarding the entire definition and replacing it with one from a federal agency that was developed under different circumstances and for different purposes. We address each element of basic service in the following section.

4. Revised Basic Service Requirements

The updated residential basic telephone service elements adopted by this decision, and as further elaborated in Appendix A, are listed below:

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1. The ability to place and receive voice-grade calls over all distances utilizing the public switched telephone network or its successor network;
2. Free Access to 911/Enhanced 911 service;
3. Billing provisions: flat rate options for unlimited incoming and outgoing calls, and California Lifeline rates and charges for eligible customers;
4. Directory services: access to directory assistance within the customer's local community; options for listed or unlisted directory listings; and options for free white pages telephone directory;
5. Access to 800 and 8YY toll-free services;
6. Access to telephone relay service as provided in Pub. Util. Code Section 2881;
7. Access to customer service information about Universal Lifeline Telephone Service, service activation, termination, and repair, and bill inquiries;
8. One-time free blocking for information services and one-time billing adjustments for charges incurred inadvertently, mistakenly, or without authorization; and
9. Access to operator services.

**4.1. Ability to Place and Receive Voice-grade
Calls over all Distances Utilizing the Public
Switched Telephone Network or Successor Network**

As the first revised element of basic service, we consolidate the following separate existing service elements:

- Access to single-party local exchange service
- Equal access to interexchange carriers
- Ability to place calls
- Voice-grade connection to the public switched telephone network or its successor network
- Provision of touch-tone dialing

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These elements are replaced with the following summary requirement, as further specified in Appendix A, that:

The provider must offer customers the ability to place and receive voice-grade calls within a local exchange or an equivalent or larger-sized local calling area utilizing the public telephone network.

The existing five elements listed above, taken together, define customers' ability to send and receive voice calls both locally and by longer distance. The revised requirement consolidates these separate existing basic service elements on a technology-neutral basis.

The restated definition replaces language requiring access to "single party local exchange" service which relates to wireline network architecture and geographically-based exchange boundaries.

The existing service elements describe wireline network technology, but do not reflect how other technologies may offer two-way voice service. Non-wireline carriers may have different local calling boundaries or, in the case of wireless, no geographically limited calling boundaries at all. Wireless networks are not designed for interexchange access requirements that apply to wireline networks. Many wireless plans include nationwide long distance, encouraging customers to use the same network for local and longer distance calling. Wireless and Voice over Internet Protocol (VoIP) carriers typically combine local and long distance. For some customers, the benefits of such combined service from a single carrier may outweigh access to multiple carriers for only one segment (i.e. interexchange) of their telecommunications needs.

This revised element does not entail any change to the flat rate billing practices that existing wireline basic service providers currently use. Existing basic service customers will retain their ability to make calls within their local

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community as they currently do. (We address the revised flat rate requirement in detail below.) At the same time, wireless or other non-ILEC providers that seek to offer basic service will not be required to conform to wireline exchange-based network architecture.

The existing basic service definition also requires that customers be given access to interexchange carriers serving in the local exchange regions. This interexchange access provides customers with the ability to make and receive calls over longer distances, even though the basic service focus is on the local community in which the customer resides. Where basic service is offered by a wireline provider, customers will continue to be able to access interexchange carriers offering service within the local exchange. Customers can thereby access a pre-subscribed long distance carrier. Wireline carriers offering basic service will remain subject to applicable federal law requiring access to the customer's presubscribed long distance carrier using 1+ dialing.

The revised definition can be satisfied by wireless service providers that do not have legal obligations to provide interexchange access. Unlike traditional wireline carriers; wireless and VoIP providers often have calling plans and network designs that do not necessarily distinguish between local, intrastate toll, or interstate toll calling; they may not have networks currently capable of providing equal access to interexchange carriers. By making wireless and other intermodal carriers subject to the revised definition above, however, they can satisfy basic service requirements, without being subject to the requirement to provide access to presubscribed long distance carriers.

The revised definition therefore requires that the basic service carrier provide the customer with a voice-grade connection from the customer residence

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to the public switched telephone network or its successor network. Basic service customers have come to rely on dependable voice-grade transmissions.¹⁴

We recognize that there are many factors that may impact a wireless customer's ability to make and receive calls, including but not limited to the building materials used to construct the customer's residence; where the customer is in the house (e.g., in the basement or attic); amount and stature of surrounding vegetation; weather; call volume within the network cell at the time the call is attempted; potential sources of interference; and the type of phone used by the customer. These limitations, however, would not necessarily prevent a basic service customer from receiving a voice-grade connection from the customer's residence to the public switched telephone network or its successor network.

Carriers offering basic service must disclose to each customer before subscription that they are entitled to a voice-grade connection and the conditions under which the customer may terminate service without penalty if one cannot be provided. If at any time, a basic service customer fails to receive a voice-grade connection to the residence and notifies the provider, the basic service provider is required to (1) restore the voice grade connection, or if not possible; (2) provide basic service to that customer using a different technology if offered by the provider and if the customer agrees; or (3) allow the customer to discontinue service without incurring early termination fees, if applicable.¹⁵

We disagree with parties' claims that customers do not require a voice-grade connection within their homes as long as they have access to the

¹⁴ Current voice data quality on an Internet Protocol (IP) network may be sensitive to degradation in the form of latency, jitter, and packet loss.

¹⁵ Nothing in these rules should be inferred as modifying the service obligations of a COLR to ensure continuity of customers' basic service.

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mobility advantage offered by wireless. This argument ignores the essential nature of basic service as a residentially-based service. While we recognize that wireless phones offer mobility advantages, those advantages do not negate the essential basic service need to be able to communicate within the customer's own residence.

Providing customers with the above-referenced options in the event of a loss of voice-grade connection will offer some degree of protection to customers. We recognize, however, that additional questions must be resolved in order to protect customers' rights to maintain a voice-grade connection in the case of COLR service where the option to switch to a different basic service provider may not be available to the customer. We shall address these additional issues in a separate proceeding to be instituted at a later date to address relevant service quality issues relating to COLR service.

We remove explicit reference to touch tone dialing, otherwise known as Dual Tone Multi Frequency signaling. This feature is implied in the requirement to provide the ability to send and receive calls over the public telephone network.

4.2. Provision of Free and Unlimited Access to Emergency Services

The basic service definition currently requires that customers be provided free and unlimited access to emergency 911/E911 services. Access to emergency services is essential to all consumers. Accordingly, the existing basic service standards and requirements for 911/E911 service access shall continue to apply.

Some additional clarification of the definition is necessary, however, to recognize the applicability of this service element to providers utilizing wireless or other alternative technologies. As various parties observe, although wireless

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and other alternative technology providers are required by law to offer free access to emergency 911/E911, the technology and call routing protocols used to provide emergency access differs from those used by traditional wireline providers.

For purposes of the basic service definition, we recognize that carriers can utilize different technologies and procedures to provide emergency 911/E911 access. We do not dictate the use of any particular technology or network design for the purpose of satisfying the basic service requirement for 911/E911 access, but recognize that a carrier must comply with applicable state and federal laws pertaining to 911/E911 access.¹⁶

Any carrier that is not a traditional wireline provider of basic service will be required to make a showing by filing a Tier 3 Advice Letter¹⁷ that demonstrates its capability to provide 911/E911 that at a minimum provides location accuracy and reliability that is at least reasonably comparable but not necessarily identical to that offered by the existing COLR. Although we are requiring the 911 and service quality filings referred to in Ordering Paragraph (OP) 5 and Appendix A and elsewhere in this Decision to initially be filed as Tier 3 Advice Letters, once the necessary rules and guidelines are established through an approved Resolution, carriers will be allowed to file Tier 2 Advice Letters for

¹⁶ Public Utilities Code Section 2891 sets forth the requirements for wireless carriers to “provide access to the local emergency telephone systems described in the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code) . . . in accordance with all Federal Communications Commission orders.” Applicable FCC orders include Wireless 911 Location Accuracy Requirements, 26 FCC Rcd 10074 (FCC 2011).

¹⁷ If a Tier 2 advice letter has not been suspended by staff by the end of a 30-day review period, it is deemed approved. The Commission has discretion to review further, where deemed warranted. A Tier 3 Advice Letter is effective only after Commission approval.

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technologically similar modes for delivering basic service. The basic service provider will further be required to certify in the above mentioned Advice Letter that it is compliant with 911/E911 standards established by federal law and regulations, and will not be deemed to provide basic service if it has obtained a waiver from such federal laws and regulations. Each basic service provider must provide its potential and existing customers information regarding its 911/E911 location accuracy and reliability standards.

4.3. Billing Provisions

The basic service elements currently include the following billing affordability provisions:

- Provision of Lifeline Rates to Eligible Customers
- Customer Choice of flat rate or measured service for local calls
- Provision for “free” unlimited incoming calls

We shall incorporate these elements into one consolidated requirement to provide billing affordability protections in the form of (a) Lifeline rates to eligible customers, (b) a flat rate option for unlimited outgoing calling, and (c) unlimited incoming calls at no additional per-call or per-minute charge. We address each of these three component elements below.

4.3.1. Lifeline Rates to Eligible Customers

We retain the basic service requirement to offer Universal Lifeline Telephone Service rates and charges to all eligible basic service customers pursuant to the Moore Universal Telephone Service Act (Lifeline Program). Traditionally, the Lifeline rate is determined as a discount from the otherwise applicable stand-alone basic service rate. The manner in which the Lifeline rate will be calculated and applied is addressed in R.11-03-013 (successor to R.06-05-028).

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The Commission has taken steps in D.10-11-033 to facilitate the offering of Lifeline by wireless and other nontraditional providers, clarifying that wireless and VoIP service providers may participate in the Lifeline program provided they offer Basic Service and otherwise comply with General Order (GO) 153.¹⁸ No wireless carrier, however, is currently receiving any support from the California Lifeline program.

Small LECs recommend that before a wireless or VoIP carrier receive either B-Fund or Lifeline support, that they meet the requirements of, or already be designated as, an Eligible Telecommunications Carrier (ETC) under FCC rules. Small LECs point to the importance of an alternative provider of basic service delivering service throughout the service territory for which they are designated ETCs, noting that leaving the service area selection to the carrier may result in cream skimming.

We shall require that a basic service provider must meet the Lifeline requirements adopted in D.10-11-033, along with any other applicable Lifeline implementation requirements adopted in R.11-03-013. Any basic service provider offering basic service must offer Lifeline rates on a non-discriminatory basis to any eligible customers within the region where the provider offers basic service. A basic service provider may not selectively exclude customers residing in areas that are more costly to serve, thus targeting only the customers that are

¹⁸ See D.10-11-033 at 68-69: Given the more dramatic shifts to wireless-only households over the last decade, with more than one million homes in California relying on wireless as their only communication service, California [footnote omitted] Lifeline should subsidize wireless telephone service when consumers choose that service as their residential service. In addition, there is no limitation on any type of technology or service provider to offer Lifeline service as long the basic service elements are part of the service delivered to the low-income customer.

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less costly to serve. All consumers must have the ability to choose alternative technologies for basic service on a non-discriminatory basis.

If a Lifeline provider was allowed to selectively exclude customers residing in areas where it is more costly for the alternative Lifeline provider to serve, thus targeting only the low-cost customers, the Commission's goal to promote consumer choice will be undermined.

Although the Commission does not have jurisdiction to regulate the rates of wireless carriers, to the extent that a carrier seeks to qualify for B-Fund or Lifeline subsidies, that carrier must comply with the billing conditions applicable to basic service. As noted above, in the Lifeline Order Instituting Rulemaking (OIR) (R.11-03-013), we intend to consider additional refinements to the elements a California Lifeline Service Provider is required to offer its subscribers to California Lifeline service. Depending on the results of that proceeding, we may add, subtract, or otherwise elaborate on the elements applicable to California Lifeline Service.

4.3.2. Provision of Unlimited Incoming Calls at No Additional Charge

The current definition enables the customer to receive unlimited incoming calls without charge to the retail customer. We shall continue to include in the definition a requirement that customers be offered the option to receive unlimited incoming calls at no additional per-minute or per-call charge. We recognize that wireless carriers may recover their costs for delivering incoming calls in a different manner than do wireline. Nonetheless, we consider the requirement to provide the customer with the option to receive incoming calls without a per-call or per-minute charge to be a necessary feature of basic service.

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Although wireless customers may be accustomed to paying for incoming calls on their cell phone, most wireless customers typically do so within an environment where they also rely on a separate wireline telephone. Therefore, such customers can choose whether to give out a cell phone number to receive calls, knowing they can use their wireline phone service to receive incoming calls at no charge. If the wireless provider becomes a COLR providing basic service, then the cell phone would become the customer's primary or only source for incoming calls. In that setting, the customer would no longer have the protection of receiving unlimited incoming calls on a wireline phone at no charge. Accordingly, we shall require any provider of basic service to offer its customers the option of receiving incoming calls without incurring a per-minute or per-call charge. We shall adopt the requirement to offer this billing option as an essential affordability protection for basic service customers while preserving the flexibility for the customer to select an alternative billing plan if it is more affordable.

Although we require that any carrier provide its customers with the option for unlimited incoming calls as part of basic service at no additional charge, we emphasize that the carrier may offer its customers other alternative billing plans that may provide some customers with a more affordable monthly bill. For example, even though a customer pays no per-minute or per-call charges for incoming calls, the customer would still be required to pay a flat rate for basic service. The customer might still indirectly absorb some share of costs for incoming calls embedded in the payment of a flat rate for basic service.

Alternatively, if a customer utilizes a relatively low volume of minutes, or uses phone service during off-peak periods, the customer may ultimately save money by subscribing to a billing plan that charges a per-minute or per-call

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charge instead of a flat rate for unlimited incoming and outgoing calls. A customer should be permitted to subscribe to such an alternative billing plan for basic service, rather than a flat rate plan, if the caller finds the alternative plan offers more affordability. Accordingly, a carrier may satisfy basic service requirements by offering the customer any alternative billing plan as long as the customer is also offered the option of subscribing to a plan that allows for unlimited incoming calls at no additional charge and unlimited outgoing calls within a local calling area, all for a flat rate.

4.3.3. Customer Option of Flat Rate for Unlimited Outgoing Local Calling

Under the current definition of basic service, the provider must offer a choice of a flat rate option which covers the ability to place unlimited calls that originate and terminate within the same local exchange area.¹⁹

Under the current definition, flat rate service applies only to calls terminating within the same local exchange within which the call originates. For calls terminated beyond the subscriber's local exchange boundaries, a per-minute toll charge applies. Basic service customers in some instances also have the option of paying a measured rate for local calls. In the Lifeline OIR (R.11-03-013), we previously noted that Lifeline local measured service enables low-income persons to have basic telephone service for a very modest sum, and that we were reluctant to alter this component of the Lifeline program without explicit analysis and clear direction pending revisions to GO 153. Consistent with that position,

¹⁹ Under the terms of current tariffs, ILECs must offer certain customers measured rate local service. Also, the Small ILECs are currently exempt from the requirement to offer customers the choice of a flat or measured rate option, unless the small LECs currently offer that option. (See Rule 4C in Appendix B to D.96-10-066). Nothing in this decision is intended to modify those existing arrangements.

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we shall not alter any existing provisions applicable to the provision of Lifeline local measured service pending a further record in R.11-03-013.

Under the revised definition, we shall retain the requirement for a fixed or flat rate option for basic calling needs, but we shall permit flexibility in terms of how the rate is applied, depending on whether the provider utilizes wireline exchanges.

Providers, such as wireless, that do not utilize local exchanges or central office rate centers for billing purposes will not be required to offer flat rate plans based upon local exchanges. We will still require, however, that wireless providers offer a basic service option for unlimited outgoing calls within a prescribed calling area. For purposes of this requirement, the designated calling area designated by a wireless carrier must be no smaller than the existing wireline local calling area in which the basic service customer is currently served. For this purpose the customer's local calling area includes any authorized Extended Area Service regions in which the customer may call for a flat rate. By requiring all basic service providers to offer customers the option of unlimited local calling at a flat rate, customers will have the choice of basic service from any available provider without incurring per-minute charges.

We recognize, however, that wireless carriers currently offer a variety of billing plans, some of which provide unlimited calling only during certain hours, or only for certain categories of calls, with per-minute charges for calls during other hours. Other wireless plans may offer a limited number of minutes for use anytime during the month, but with per-minute charges for calls that exceed the fixed allowance. In order to maximize the choices available to customers, we shall provide the option for wireless customers to select an alternative billing plan for their basic service that offers per-minute usage charges for certain calls if

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the customer finds such alternative plan more affordable and better suited overall as compared with the unlimited calls at a flat rate. As noted above in the preceding section, as long as the wireless carrier offers the option of subscribing to basic service for a flat rate that covers unlimited incoming calls and unlimited outgoing calls within a designated calling area, the carrier may also offer the customer alternative billing plans that may be more affordable for the customer. Depending on the terms and conditions of a given wireless billing plan, customers may be able to lower their overall monthly wireless phone bill by subscribing to the plan best tailored to their particular calling patterns.

We will not restrict the alternative billing plans offered to meet basic service requirements as long as such plans are offered to the customer on an equal disclosure basis along with a flat rate basic service plan as an available option. Each customer can then make their assessment as to which billing plan best meets their basic service calling needs.

Earlier in this proceeding, parties were encouraged to seek consensus on a fixed allowance of minutes that could serve as a proxy for a wireless version of flat rate basic service. There was much opposition to setting any specified minutes of usage allowance. Parties argued that billing plans should be tailored to the needs and preferences among customers.

We recognize that individual customers vary in calling needs and preferences. A calling allowance that is optimal for one customer will not necessarily optimize calling preferences of others. The concept of basic service is not that standards must match exactly every customer's calling preferences, but rather, that an affordable option be provided within the price range of the majority of customers for meeting basic needs. Wireline and wireless calling plans need not be identical to achieve the goal of affordable basic service.

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The precise measure of what constitutes essential basic calling needs is difficult to quantify and will vary depending on individual patterns and situations. By requiring all basic service providers to offer an option of a monthly unlimited local calling allowance option at a flat rate, we establish a reasonable proxy to the affordability currently offered under the existing flat rate basic service for calls within a local exchange. We emphasize that we are not here authorizing any additional charges for basic service customers, but rather, are merely authorizing a fixed rate option that would replace per-minute or per-call charges with a fixed amount that does not vary with call volume within the specified geographic limits. This revision is intended to provide additional choice to customers that may prefer to use a wireless carrier or any other provider for their basic service needs.

4.3.3.1. Affordability Provisions in High-Cost Areas

When the basic service definition was adopted in D.96-10-066, the flat rate was subject to Commission-regulated caps. Although the requirement to offer a flat rate still applies, the level of the rate is no longer subject to Commission-regulated caps.

Effective January 1, 2011, the Commission no longer imposes caps on basic rates. The COLR, however, is still required to certify that its basic rate in a designated high-cost area does not exceed 150% of the highest basic rate charged in California outside of the high-cost area. If a non-wireline COLR does not offer a separate stand-alone rate outside of the high-cost area, such carrier is to apply the 150% limit based on stand-alone rates of an adjacent ILEC or other acceptable proxies as may be approved by the Commission. (*See* D.08-10-040, OP 14).

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We disagree with parties claiming that offering a fixed or flat rate option is an outdated vestige of an era when wireline was the only option. Based upon the significant numbers of customers that still subscribe to basic wireline service, and in view of comments on this issue heard at the PPHs held in this proceeding, we conclude that a flat rate option for basic calling needs continues to represent an essential need. We recognize that individual customer billing preferences may vary. For example, certain customers may accept a limited number of on-peak minutes when they can have unlimited usage, including some long-distance, during off-peak times. Nonetheless, for a significant number of customers, a flat rate option offers an essential affordability protection. Irrespective of how technology has evolved over time, basic service must remain affordable. A flat rate for essential basic calling needs continues to provide important affordability protection.

4.4. Provision of Directory Services

The existing definition requires access to directory services through the following separate elements:

- Access to local directory assistance and to foreign Numbering Plan Areas (NPA).
- Provision of a published directory.
- Provision of a directory listing in a published directory, if desired.
- Access to operator services.

The revised definition consolidates these separate elements to require the provider to offer access to directory assistance, the option for a published directory, and the option for a directory listing. We elaborate on the manner in which these options may be offered in view of differences between wireline and wireless service. Nonetheless, we preserve the customer's right to elect to receive

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these services, taking into account the variations among different technologies and provisioning options involved.

4.4.1. Access to Directory Assistance

The current definition, referencing directory assistance “access to foreign NPAs” refers to access to directory assistance in areas outside the caller’s local calling area via NXX-555-1212 dialing. We shall continue to require access to directory assistance, recognizing that directory assistance remains necessary to enable customers to readily access phone numbers for communicating with others. We shall modify the definition, however, to recognize that directory assistance may be offered in more diverse ways depending on the carrier and mode of service. We shall replace references to calling areas by local exchange or NPA, with more generic reference to access to listed numbers within the customer’s local community. While it is not necessary to require directory assistance cover the exact exchange boundaries employed by a wireline carrier, we shall require access to directory assistance for listings within the local community of the subscriber. We shall define the local community to cover geographic areas at least equivalent to the range and quality currently provided by the customer’s existing COLR.

Small businesses and residents of rural areas, in particular, depend upon directory services that are knowledgeable about local businesses and residential listings. The definition will require that providers of basic service offer directory assistance.

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4.4.2. Provision of Directory Listing

The existing definition requires the free provision of one directory listing per year as provided for in D.96-02-072.²⁰ We recognize, however, that wireless service providers typically do not provide a published listing of its subscribers' phone numbers in a directory. Moreover, many wireline customers actually pay to keep their phone numbers out of a white pages directory. Basic service customers will continue to have the option that currently exists to have their number listed for free in a published directory, but will not be required to do so. For basic service provided by a traditional wireline carrier, a customer's listing shall be included for free in the local directory and directory assistance as a default unless the subscriber affirmatively requests to have the number unlisted. Where a non-traditional provider offers basic service, however, the customer number may be excluded from the local directory and directory assistance as a default unless the subscriber affirmatively requests to have the number listed.

The carrier should provide appropriate disclosure to the customer, such as through a customer service number and/or web site link, concerning how the customer may request a directory (as discussed below) and/or how the customer may affirmatively request to have a published listing, or to be unlisted, if different than the default arrangement.

²⁰ As stated in D.96-02-072, Appendix E, § 8.J. (2): "[Incumbent Local Exchange Carriers] ILECs shall include [competitive local carriers] CLCs' customers telephone numbers in their 'White Pages' and directory listings associated with the areas in which the CLC provides local exchange telecommunications services to its customers, except for CLC customers who desire not to have their telephone numbers appear in such listings and databases, at nondiscriminatory tariff rates charged to the CLC or its customer."

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4.4.3. Provision of White Pages Directory

The existing definition requires the offering of a free white pages telephone directory as part of basic service. In adopting this requirement in 1996, we noted that:

Telephone customers have become accustomed to receiving a free white pages directory and yellow pages directory every year. Free directories minimize the number of calls made to directory assistance, and promote the wide distribution of yellow pages advertising. We shall add the free white pages directory to the definition of basic service.²¹

White page directories containing both business and residential listings are commonly bundled with yellow-page directories and provided to both residences and businesses in the ILEC's service territory. The directories list all residential customers in the customer's local calling area, with published numbers, and typically contain, or are bundled with, business and government white pages, traditional yellow page listings, and sometimes additional consumer guides.

A white page directory competes with the carrier's directory assistance service, and empowers consumers to take advantage of this competition to reduce their costs of telephone service. Eliminating the customer's access to a white page directory would eliminate a critical element of customer choice.

Accordingly, a basic service provider must provide customers the option to receive a free white pages directory covering the local community in which the customer resides. For purposes of this definition, the local community shall include a geographic area at least equivalent to the area covered by the white pages directory that the existing COLR currently provides.

²¹ D.96-10-066, 68 CPUC2d 524, Slip OP. at 28.

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At the same time, we recognize that wireless service providers do not typically provide customers with published directories. In any event, irrespective of the technology utilized, basic service customers must retain the option to receive a directory if they so choose. Thus, if a wireless carrier offers basic service, the wireless carrier has an obligation to provide its customers with the option to receive a free published directory.

We also provide for flexibility in meeting this requirement for telecommunications providers that do not publish their own directory. The directory publishing market has not supported a white-page directory, in particular, for the wireless industry. Accordingly, we shall not require a basic service provider to engage in directory publishing, so long as the provider makes arrangements to have a white pages directory delivered to subscribers who wish to receive one.

In such instances where a provider does not publish or distribute its own directory, the requirement to provide a published white pages directory will be deemed satisfied if the provider makes available the option to obtain a published directory.

For purposes of our revised basic service definition, we shall therefore require that customers be provided the option to receive a free white page directory covering the local community in which the customer resides, to include a geographic region at least equivalent to the range of the white page directory provided by the existing COLR. Preserving this requirement protects customers' interests in having access to published directory listings.

Although the delivery of a white pages directory has traditionally been provided in paper form, the Commission has approved Verizon's proposal (in Advice Letter 12535) to end automatic delivery of printed white pages directories

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containing residential listings and instead to offer its customers the alternative option of receiving the directory of residential listings electronically in CD-ROM format, or by online directory of the listings. (*See* Resolution T-17302).

Under this authorization, Verizon customers will no longer receive paper delivery of the directory unless they affirmatively elect to keep receiving it by contacting Verizon. A customer need only make a one-time election to receive a printed paper copy of the white page residential listings directory. The one-time election entitles the customer to continue to annually receive a paper directory unless the customer changes his/her request or discontinues local service from Verizon.

Accordingly, while we approved this variation in the manner of providing access to a published directory for Verizon, the underlying requirement in D.96-10-066 to provide the option to receive a local directory remains a required element of basic service.

Since Verizon has been authorized to provide electronic delivery, we recognize the Verizon authorization as being compliant with the revised definition. Other basic service providers operating in Verizon's service territory will similarly be permitted to satisfy the directory requirement by complying with the same requirements applicable to Verizon. At this point, however, since we have not developed a record on the implications of more widespread applicability of the Verizon proposal to other carriers providing service outside of the Verizon territory, we refrain from broadening the Verizon authorization to apply to other carriers' service outside of the Verizon territory through this decision. If other carriers serving outside of the Verizon territory seek authority to offer the availability of directories electronically by CD-ROM or on-line in accordance with similar terms and conditions as set forth for Verizon in

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Resolution T-17302, they may file Tier 2 advice letters seeking such authority, and justifying why such authorization should be granted. Any such advice letters will be considered on a case-by-case basis.

We, thus, disagree with parties claiming that market developments demonstrate that consumers no longer view a white page listing as an essential element of basic service and that we should discontinue the requirement to provide a local directory. Consumers' ability to interact in their local community of interest is supported by having the ability to receive a free local directory as a feature of basic telephone service. The revised definition that we adopt safeguards consumers rights to continue to receive a free local directory while providing appropriate flexibility in how this requirement may be satisfied.

4.5. Access to 800 or 8YY Toll-Free Services

The basic service definition in D.96-10-066 entitles customers to access 800 or 800-like (8YY) toll-free services without incurring per-call or per-minute toll charges. We shall continue to include this requirement for any provider seeking to offer basic service, requiring unlimited access to 8YY toll-free services. Important social, health care, and financial services, as well as recreational options, rely upon access to 8YY calls to meet essential customer needs.

Current federal law requires wireline carriers to treat calls to 8YY numbers as toll-free calls. Wireless carriers providers, however, typically treat access to 800 or 800 like toll-free services the same as any other call and impose per-minute charges. Various wireless calling plans place limits on customers' minutes of usage. Under such plans, calls to 8YY numbers count against the customer's specified minutes of usage, resulting in additional charges to call 8YY numbers in volumes that exceeded the specified allowances.

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Because calls to 8YY numbers would count against the user's specified minutes of usage, the user would incur additional charges to call 8YY numbers in volumes exceeding the user's specified minutes and such calls would not be considered "free."

Each provider of basic service must offer at least one basic service option that allows unlimited calls to 800 and 8YY toll-free numbers with no additional usage charges for such calls. A provider may offer alternative billing plans for basic service that may include usage for calls to 800 and 8YY toll-free numbers.

The provision of 8YY numbers will be provided for free to customers that subscribe to the unlimited calling flat rate option. In any event, the carrier must provide full disclosure to the customer concerning how charges for 800 numbers would apply if the customer does not subscribe to an unlimited calling flat rate option.

4.6. Access to Telephone Relay Service as Provided for in Pub. Util. Code § 2881

The provisions of § 2881 make reference to the Deaf and Disabled Telecommunications Program and the statewide relay system that became the California Relay Service. This "basic service" element mandates the important protection that any carrier providing "basic service" must offer customers access to the relay service established under § 2881. We are unpersuaded by arguments of AT&T, Cox, and Nexus that there is no need to include this element as it is a statutory mandate. As the Small LECs and Surewest note, Pub. Util. Code § 2881 does not apply to all carriers, such as intermodal competitors.

We shall maintain this element, affirming that all providers of basic service, regardless of the technology used, must offer access to the Relay Service to customers pursuant to provisions of § 2881.

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4.7. Free Access to Customer Service for Information about Universal Lifeline Telephone Service, Service Activation, Service Termination, Service Repair and Bill Inquiries

Access to customer service for information about the above-referenced services shall be retained as an element of basic service. Free access to customer service information about these essential categories of basic service empowers customers to make proper decisions about their service needs. As the Lifeline program is revised to encourage wireless providers to participate, such providers will be required to provide free access to the above-referenced information.

4.8. One-Time Free Blocking for Information Services, and One-Time Billing Adjustments for Charges Incurred Inadvertently, Mistakenly, or Without Authorization

This element was originally aimed at blocking calls to 900/976 information numbers which had been recently introduced into the market in the late 1980s/early 1990s. Some parties argue that this requirement now seems unnecessary as consumers have grown familiar with these types of services.

We shall retain this element. We disagree with parties who claim that 900/976 blocking is no longer an issue and this provision should be dropped. Even though the original billing problems encountered with 900/976 numbers may have subsided, other unauthorized charges may continue to be a potential risk. Basic service providers should not be allowed to force basic service customers to buy add-ons or pay per-use fees for non-basic features. Consumers should be able to control the potential for unexpected charges up front by being fully informed about “features” in their service that may result in additional charges, and having ability to block access to these features. Accordingly, the general protections that this service offers continue to be relevant. As a practical

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matter, most if not all carriers currently provide blocking to these types of numbers.

4.9. Access to Operator Services

The existing provision that basic service includes free access to operator services continues unchanged.

5. Service Quality Standards

5.1. Importance of Service Quality Standards for Basic Service

In addition to defining the service elements making up basic service, the Commission has a statutory duty to ensure that telephone corporations serve customers based on reasonable statewide service quality standards. Applicable standards include but are not limited to, network technical quality, customer service, installation, repair, and billing. The obligation to meet adequate service quality standards extends beyond basic service providers to include any telephone corporation, as defined under Pub. Util. Code § 234(a).²²

Appropriate consumer protection standards associated with basic telephone service quality must be in place and enforced, regardless of the service provider technology involved. The Commission has previously adopted service quality standards for wireline carriers.²³ In the case of wireless and VoIP, however, proceedings have not yet been conducted to identify, adopt, and enforce the necessary standards.

²² A telephone corporation, for purposes of applying service quality standards under the Commission's general orders, includes every certificated or registered carrier, and every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.

²³ The Commission adopted service quality reporting measures and standards in GO 133-C through D.09-07-019 on July 9, 2009 as a result of R.02-12-004.

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In D.09-07-019, the Commission most recently addressed the issue of telecommunications service quality standards, but concluded that it was premature to address whether it had jurisdiction to require service quality reporting for wireless, VoIP, and IP-enabled carriers. We deferred any decision on such service quality issues pending the FCC's rulemaking regarding the regulatory treatment of such carriers.²⁴ Wireless and other intermodal carriers whose request for COLR status in high-cost areas is granted will be expected to comply with any applicable service quality standards ultimately adopted by the Commission.

5.2. Positions of Parties

Parties filing comments in this proceeding expressed conflicting views on service quality standards in the context of basic service requirements.

Small LECs argue that consumers who receive basic telephone service from a carrier other than an ILEC should also receive the benefit of the GO 133-C service quality standards. TURN agrees. Small LECs state that there are numerous consumer protection rules that should also be applied to alternative providers of basic service — pointing to warm-line requirements as an example.

²⁴ See Order Instituting Investigation (OII) on the Commission's Own Motion to Determine the Extent to Which the Public Utility Telephone Service Known as Voice over Internet Protocol Should be Exempted from Regulatory Requirements [D.06-06-010] (2006) __Cal.P.U.C.3d __, at 3 (slip op.).) VoIP providers fall into two general categories. Facilities-based providers, own the last-mile broadband connections that reach end-users. There are also "over-the-top" VoIP providers that provide voice services by using a last-mile broadband connection that the customer has the responsibility to secure from some source.

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DRA proposes the following areas that service quality standards must address include:

- Standardized operator response time;
- Street level coverage maps for wireless service;
- Network Outage Reporting System data; and
- Carrier specific complaint statistics from the Commission's Consumer Affairs Branch (CAB).

DRA argues for adoption of standards for each technology providing basic service. For wireline carriers, the Commission established standards in GO 133-C. Service quality standards and measures in GO 133-C address, but are not limited to, customer service, installation, and repair, and apply variously to General Rate Case ILECs and URF LECs. GO 133-C requires that all facilities-based certificated and registered telephone corporations report major service interruptions, and that wireless carriers provide coverage maps that include "a clear and conspicuous disclosure of material limitations in wireless service coverage depiction and wireless service availability." The GO rules also include requirements about record keeping, the location of records, and the availability of those records to be viewed by the public. However, there are currently no service quality standards for VoIP providers and the only requirement applicable to wireless carriers is to supply coverage maps to customers.

DRA proposes that VoIP and wireless providers should report operator answering time performance based on the GO 133-C requirements for wireline carriers. DRA proposes that VoIP providers should provide network outage information to the Commission, as wireline and wireless carriers do now. DRA believes that wireless providers of basic telephone service should provide more than the general coverage maps required under GO 133-C and should provide

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customers with detailed street level wireless coverage maps. VoIP providers are exempt from the requirements of the Billing Rules Decision (D.10-10-034) but DRA proposes that they comply with the same rules as wireline and wireless providers. DRA also proposes the Commission publish CAB statistics on all providers of basic service to alert customers of service problems.

Other parties offered alternative perspectives on service quality and fitness standards. AT&T continues to advance the position that service quality standards are only an issue for a reverse auction, should the Commission decide to conduct one. AT&T states that service quality standards should not be established for basic service outside of the auction context.

AT&T also states that the competitive marketplace will ensure providers have sufficient incentive to provide adequate service in order to attract and retain customers. AT&T argues that wireless carriers compete for customers based on network quality and performance and do so in the absence of Commission mandates.

Without service quality standards, the potential for waste, fraud, and abuse increases. Service quality standards are an integral component of the revision of the basic service definition that the Commission cannot ignore.

Cricket Wireless also argues that the Commission should not impose service quality requirements on wireless carriers in this or any proceeding. Cricket offers its perspective on why service quality regulation is not needed for supported wireless carriers.

Given the variability of service quality over any given coverage area and in the interest of ensuring customers are satisfied with their service, wireless carriers have largely adopted a model that allows customers to “test drive” their service and assess whether the phone meets their needs (e.g., works in their

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home or office, along their typical travel routes, etc.). If the customer is not satisfied with the level of service, they are able to return the phone within a certain amount of time.

TURN agrees that “trial periods” are a positive improvement with wireless mobility offerings, but contends that a trial period does not resolve the service quality issue for supported services.

5.3. Discussion

Consistent with our universal service obligations to ensure that all Californians have access to essential telecommunications services necessary for them to interact and participate in modern society, we conclude that further proceedings are warranted to identify, adopt, and enforce appropriate service quality standards applicable to any carrier, including wireless or VoIP, that serves in the capacity of COLR in a high-cost area.

We cannot necessarily assume that competitive forces ensure that wireless providers serving in the capacity of COLR will make the necessary commitment to quality standards for all of customers. Objective measures of wireless carrier performance, as produced by entities such as Consumer Reports, consistently report significant variation in wireless carrier performance. Wireless industry practices offering trial periods for their services do not provide a sufficient substitute for service quality standards, particularly where COLR obligations are involved.

Accordingly, we must develop a further record regarding the requisite standards together with enforcement tools to ensure that the standards are met. We shall issue a further ruling either in this docket or another proceeding to provide further guidance on the development of a record on this issue.

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In addition to the need to identify, adopt, and enforce standards for wireless and other alternative technologies, we also recognize the need to consider additional measures to promote compliance and enforcement of existing quality standards applicable to wireline carriers.

In its March 2011 report on telecommunications carrier compliance with existing standards, the Commission's CD found a number of instances where carriers failed to meet existing service quality standards. CD recommends that the Commission initiate an OIL, and/or an OIR to review the GO 133-C standards, particularly with regards to Out-of-Service restoration times and assess why carriers consistently could not meet this standard, why carriers are not regularly meeting the operator answer time standard of 60 seconds or less, consider adopting new standards or modify existing standards, and consider penalty mechanisms for companies that consistently fail to meet one or more standards. We agree that the adequacy of existing compliance and enforcement of service quality standards needs to be reviewed, and necessary remedial action taken, as that inquiry may determine to be warranted.

On December 1, 2011, the Commission issued R.11-12-001 to evaluate telecommunication corporations' service quality performance and to consider modification to service quality rules. The scope of R.11-12-001, however, has not been expressly designed to address the particular issues that we have identified here, namely, the service quality standards that should apply to COLRs, particularly those using newer technologies such as wireless or VoIP.

We conclude that either opening a new OIR or addressing the issue in R.11-12-001 is an appropriate forum in which to consider further issues relating to service quality standards for wireless or other nontraditional carriers, with express consideration of service quality standards in connection with the offering

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of basic service, by carriers in the capacity of a COLR. Alternatively, the Commission may choose to address these issues within R.11-12-001 provided that the scope of the proceeding is amended accordingly. As noted above, at a minimum, this consideration should include appropriate standards relating to providing maintenance of a voice-grade connection from the customer's residence to the public switched telephone network or its successor network. Accordingly, further issues regarding service quality standards applicable to the provision of basic service by wireless and other non-traditional carriers seeking COLR status, including measures to ensure compliance and enforcement will be addressed either in R.11-12-001 or in a new OIR that we may open at a future date.

Until the Commission determines the extent to which service quality standards should be adopted for non-traditional wireline carriers, a provider that wishes to offer basic service utilizing anything other than traditional exchange-based wireline technology that cannot comply with all the requirements of GO 133-C must file a Tier 3 advice letter. This filing must indicate what GO 133-C service quality measurements and reporting procedures it can comply with, those it can provide functionally equivalent reports for and lastly what measurement and reporting requirements are not applicable to the technology it is using to provide basic service.

6. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Thomas R. Pulsifer is the assigned Administrative Law Judge in this proceeding.

Comments on Proposed Decision

The proposed decision of the assigned Commissioner in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code,

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and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on December 5, 2011, and reply comments were filed on December 12, 2011, by various parties. An additional round of comments on a revised version of the proposed decision were filed on February 24, 2012. We have incorporated parties' comments as appropriate in finalizing this decision.

7. Findings of Fact

1. The Commission, in D.96-10-066, last devised minimum basic service standards applicable to the Commission's universal service program.
2. The existing adopted requirements for basic telephone service apply to any carrier seeking to qualify for B-Fund support and/or for Lifeline support.
3. Under the B-Fund program, a COLR must offer basic residential service to all customers within a designated service area, and receives funding to subsidize affordable basic rates in high-cost areas.
4. The Commission undertook to update the definition of basic service in view of the passage of time since the definition was last adopted.
5. Although basic service has traditionally been provided by carriers using local exchange wireline network architecture, other forms of telecommunications services offered by wireless, cable, and VoIP have been growing in popularity, particularly over the past decade.
6. Revising the basic service definition in a competitively neutral manner offers the potential to expand the range of providers offering basic service, thereby increasing the range of service choices for consumers.
7. Wireless and VoIP currently offer telecommunications services in competition with ILECs, but do not currently offer basic service.

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8. While the Wireless and other alternative offerings are configured differently from basic service, those offerings currently serve as partial, but not complete, substitutes for basic service for many customers.

9. Although a growing percentage of customers subscribe to wireless or VoIP service for certain communications needs, a majority of customers continue to subscribe to basic wireline service, either alone or in combination with wireless service.

10. Wireless and VoIP communications services offer mobility and other potential advantages that are not available through traditional wireline basic service. At the same time, wireless and VoIP service plans omit certain features and benefits that are otherwise currently available through basic service.

11. While some customers have discontinued wireline service in favor of other communications services, the needs and preferences of that minority of customers do not represent the needs and preferences of the majority of customers that continue to subscribe to basic wireline service.

12. Information received from members of the public through oral presentations at public participation hearings and through written letters to the Commission indicate that elimination of essential service features currently available through basic service would be detrimental.

13. Based upon the features currently relied upon by customers, essential basic service features include the service features set forth in Appendix A of this decision.

14. A defining feature of the basic service obligation is the capability for all residential customers within a designated service area to send and receive telephone calls.

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15. For purposes of basic service, if the carrier's customers within the designated basic service area lack the capability to maintain a voice-grade connection from the customer residence to the public switched telephone network or its successor network, then the carrier would fail to satisfy a key basic service need.

16. The ability to receive unlimited incoming calls without a per-minute or per-call charge is an existing feature that customers have come to expect at least for their basic service. Although wireless customers may be accustomed to paying for incoming calls on their cell phone, most wireless customer typically do so within an environment where they also rely on a separate wireline telephone for receiving such calls.

17. The flat rate option for calls within a local exchange currently available as a basic service element provides a measure of affordability and predictability in the monthly bill. In order to provide a comparable degree of affordability and predictability in meeting basic calling needs offered by a wireless provider, the requirement to offer both unlimited incoming and outgoing calls, for a flat rate provides a reasonable proxy. As long as the carrier offers the option for a flat rate for unlimited calling in a given calling area subject to equal disclosure with other rate plans, the carrier may also offer the customer an alternative rate plan for purposes of basic service that is not restricted as to per-minute or per-call charges.

18. Providing wireless customers with the option to select for their basic service either a flat rate plan or an alternative billing plan that offers per-minute usage charges for certain calls may offer a more affordable or better suited billing plan.

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19. Free access to 911/E911 service is an essential basic service. Delays or failure to promptly route 911 calls to local emergency responders could risk significant loss to a customer relying on 911.

20. Wireless providers are currently subject to FCC compliance standards for 911/E911 calls which involve a different standard compared to existing wireline standards.

21. Regardless of whatever technology or network design a carrier utilizes to provide 911/E911 access, in order to qualify as basic service, the carrier must provide the caller with 911/E911 location accuracy and reliability that is at least reasonably comparable to that offered by the existing COLR, and in accordance with applicable state and federal law and regulations, including California Public Utilities Code Section 2892 and FCC location accuracy orders including 26 FCC Rcd 10074 (FCC 2011).

22. If a wireless carrier becomes a provider of basic service, the cell phone would become the customer's primary or only source for incoming calls. In that settling, the customer would no longer have the protection of receiving incoming calls on a wireline phone at no charge.

23. The provision of Lifeline service is an essential basic service element that promotes affordable basic service for low-income consumers.

24. Access to directory assistance remains a necessary basic service element to enable customers to readily access phone numbers for communicating with others.

25. Having the option to receive delivery of a published local directory as a basic service feature provides an important means for consumers to interact with others within their local community. Requiring basic service providers to

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provide customers the option to receive a free white pages directory preserves basic service customers' interests in having access to published directory listings.

26. Although wireless service providers do not typically provide customers with published directories, basic service customers are entitled to the option to receive a directory if they so choose.

27. The directory publishing market has not supported a white-page directory, in particular, for the wireless industry. Accordingly, there is no need to require a basic service provider to engage in directory publishing, so long as the provider makes available the option to obtain a white pages directory to subscribers who wish to receive one.

28. Verizon currently satisfies the basic service requirement to provide a local directory under the procedures authorized in Resolution T-17302 by providing the option for electronic delivery by CD-ROM format or via on-line delivery, as an alternative to paper delivery. Other basic service providers serving customers within the Verizon service territory also can satisfy the local directory requirement by complying with the same requirements for electronic delivery as does Verizon. Providers seeking to offer basic service outside of the Verizon territory can file Tier 2 advice letters for purposes of seeking authorization to satisfy the local directory requirement under the procedures authorized in Resolution T-17302.

29. Current basic service rules entitle customers to access to 800 or 8YY toll-free services without incurring per-call or per-minute toll charges.

30. Requiring that any provider of basic service offer toll-free unlimited access to 8YY toll-free services will help meet important social, health care, and business needs of customers that rely upon access to 8YY calls.

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31. Requiring any provider of basic service to offer customers access to telephone relay services pursuant to the provisions of Pub. Util. Code § 2881 will provide important consumer protections, particularly to the deaf and disabled sector of consumers.

32. Essential basic service includes requiring any provider of basic service to offer free access to information about Lifeline, service activation or termination, service repair or bill inquiries.

33. Essential basic service includes requiring one-time free blocking for 900/976 Information Services and adjustments for charges incurred mistakenly or without authorization.

34. Further proceedings are warranted to identify the extent to which service quality standards should be adopted for non-traditional wireline carriers. In the meantime, it is reasonable to require that a provider that wishes to offer basic service utilizing anything other than traditional exchange-based wireline technology that cannot comply with all the requirements of GO 133-C file a Tier 3 advice letter in accordance with Appendix A requirements.

Conclusions of Law

1. While reducing the regulation of telecommunications services and prices in recent years through adoption of the “Uniform Regulatory Framework,” the Commission has continued to impose minimum service requirements for the provision of “basic telephone service.”

2. The relevant criteria for determining basic service requirements include whether a service element meets an essential residential consumer needs and whether the element is defined in competitively neutral manner.

3. The determination of essential residential consumer needs should consider relevant universal service goals to ensure consumers throughout California have

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access to essential telecommunications services, taking into account the essential needs of the most vulnerable consumer sectors, including the elderly, those with disabilities, and low-income sectors.

4. While basic service may be offered in combination with additional features or as part of a larger bundle of services, basic service should also be made available without obligating the customer also to subscribe to video or data services.

5. Defining basic service on a technologically neutral basis does not warrant the degrading of essential consumer needs to satisfy the lowest common denominator of service features that carriers may currently be willing to offer.

6. A defined set of basic service features and related general requirements, as set forth in Appendix A, is warranted as an essential tool to satisfy the Commission's universal service goals.

7. Any carrier seeking to meet the requirements for a COLR in accordance with the rules adopted in D.96-10-066, Appendix B.6.D, should offer at least the basic service elements, as defined in Appendix A of this decision.

8. The basic service features and related general requirements set forth in Appendix A should be applied to any carrier seeking to offer basic service in California, including carriers seeking to qualify as a COLR, as well as a provider that seeks to offer California Lifeline service without serving as the customer's COLR. Further modifications to the elements required for the provision of California Lifeline service will be considered in R.11-03-013, the Commission's rulemaking to reform Lifeline policies. Depending on modifications adopted in R.11-03-013, the Commission may add, subtract, or refine the required elements applied to the provision of California Lifeline Service.

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9. Further issues regarding the determination of minimum service requirements applicable to wireless or other carriers that seek to qualify as a COLR should be addressed either in a new OIR proceeding or as part of R.11-12-001. These further proceedings should also address the adequacy of compliance and enforcement of any service quality standards that are adopted.

10. In accordance with the Consumer Bill of Rights, adopted in GO 168, consumers have a right to receive clear and complete information about all material terms and conditions, such as material limitations, for products and service plans they select or for which they request information. Consumers also have a right to clear and complete disclosure of material limitations on access to 911 emergency services.

11. In order to ensure customers can make fully informed choices regarding communications services, communications service providers should provide customers with information disclosures in a form that is readily accessible and available to existing and prospective customers, and of sufficient clarity and detail to enable customers to make an informed choice as to whether the service coverage, availability, reliability, and quality being offered is sufficient and suitable to meet the customer's expectations and needs.

O R D E R

IT IS ORDERED that:

1. The basic telephone service elements and related requirements set forth in Appendix A are hereby adopted. These elements and requirements must be met by any service provider offering basic service in California. While carriers may offer basic service in conjunction with added features and/or enhanced serve

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elements without additional charge(s) as part of a basic service offering, carriers must not obligate the customer also to subscribe to data and/or video services as a condition of basic service. Any basic service rates and elements, including any added features or enhanced service elements must be offered on a non-discriminatory basis, and consistent with Appendix A requirements.

2. Any service provider seeking to qualify as a carrier of last resort or for California Lifeline support must offer basic telephone service in accordance with the basic service elements and related requirements of Appendix A.

3. The adopted basic service elements and related requirements set forth in Appendix A modify and supersede the previous basic service requirements as adopted in Appendix A, Part 4, of Decision 96-10-066.

4. Further proceedings in Rulemaking (R.) 11-03-013 shall resolve all other issues pertaining to Universal Lifeline Telephone Service reform. Accordingly, the Commission may adopt further modifications in R.11-03-013 for the provision of Lifeline service. Such further modifications adopted in R.11-03-013, may add, subtract, or refine the elements of service as applied to the provision of Lifeline.

5. Further proceedings, either in a new Order Instituting Rulemaking or in Rulemaking 11-12-001, are required to determine and adopt appropriate service quality standards applicable to providers seeking to qualify as a carrier of last resort. In the meantime, a provider that wishes to offer basic service utilizing anything other than traditional exchange-based wireline technology that cannot comply with all the requirements of General Order (GO) 133-C should file a Tier 3 advice letter, indicating what GO 133-C service quality measurements and reporting procedures it can comply with, those it can provide functionally

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equivalent reports for and lastly what measurement and reporting requirements are not applicable to the technology it is using to provide basic service.

6. To ensure that customers can make fully informed choices regarding the communications services that best meet their needs, with full knowledge of the tradeoffs among the benefits and limitations of different communications technologies, all companies offering basic service shall provide existing and prospective customers with information regarding 911 reliability and accuracy, as well as clear and conspicuous disclosures of the capabilities and material limitations in service coverage, service availability, and service quality. The disclosures must be offered in a form that is readily accessible and available to existing and prospective customers, with sufficient clarity and detail to enable customers to make an informed choice as to whether the service coverage, availability, reliability, and quality being offered is sufficient and suitable to meet the customer's expectations and needs.

7. The Commission's Communications Division shall insure that the marketing for the California Lifeline program include information and educational materials explaining the capabilities and limitations of the communications technologies that Lifeline supports. These materials shall reference Consumer Affairs Branch complaint data wherever possible.

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8. Rulemaking 09-06-019 remains open for remaining issues relating to California High Cost Fund-B reform.

This order is effective today.

Dated December 20, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners

APPENDIX A

Basic Telecommunications Service Elements

At a minimum, the following service elements must be offered on a nondiscriminatory basis by any carrier providing Residential Basic Telephone Service (basic service) within California. These revised basic service elements do not impose an obligation to provide basic service upon any carrier where no such obligation exists today. Nor do they prohibit a carrier from electing to provide additional elements as part of its basic service offering. Any carrier may use any technology to satisfy any obligation to provide basic service as detailed below:

I. Basic Service Elements:

1. The provider must offer customers the ability to place and receive voice-grade calls over all distances utilizing the public switched telephone network or successor network.
 - a. Carriers offering basic service must at a minimum enable calls to be sent and received within a local exchange or over an equivalent or larger-sized local calling area.
 - b. A basic service provider must allow equal access to all interexchange carriers within the local calling area in accordance with state and federal law and regulation.
 - c. Carriers offering basic service must provide a voice-grade connection from the customer residence to the public switched telephone network or successor network.
 - d. Carriers offering basic service must disclose to each customer before subscription that they are entitled to a voice-grade connection and the conditions under which the customer may terminate service without penalty if one cannot be provided.
 - e. If at any time, a basic service customer fails to receive a voice-grade connection to the residence and notifies the provider, the basic service provider is required to
 - (1) promptly restore the voice-grade connection, or if not

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possible (2) provide basic service to that customer using a different technology if offered by the provider and if the customer agrees; or (3) allow the customer to discontinue service without incurring early termination fees, if applicable. Nothing in these rules should be inferred as modifying the service obligation of a COLR to ensure continuity of customers' basic service.

2. Free access to 911/Enhanced (E) 911 service.
 - (a) A basic service provider must provide free access to 911/E911 emergency services, in compliance with current state and federal laws and regulations.
 - (b) Any carrier that is not a traditional wireline provider of basic service will be required to make a showing by filing a Tier 3 Advice Letter that demonstrates its ability to provide 911/E911 location accuracy and reliability that is at a minimum at least reasonably comparable, but not necessarily identical to, that traditional wireline service offered by the existing COLR.
 - (c) The basic service provider will further be required to certify in a Tier 3 Advice Letter filing that it is compliant with 911/E911 standards established by state and federal laws and regulations, and will not be deemed to provide basic service if it has obtained a waiver from such state and federal laws and regulations.
 - (d) Each basic service provider must provide its potential and existing customers information regarding its 911/E911 emergency services location accuracy and reliability standards.

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3. Access to directory services.

- (a) Each basic service provider must offer access to directory assistance within the customer's local community that covers an area at least equivalent to the size of the geographic area the existing COLR's directory assistance service provides.
- (b) For basic service provided by other than a traditional wireline carrier, a customer's listing may be excluded from the local directory and directory assistance as a default unless the subscriber affirmatively requests to have the number listed.
- (c) For basic service provided by a traditional wireline carrier, a customer's listing shall be included for free in the local directory and directory assistance as a default unless the customer affirmatively requests to have the number unlisted.
- (d) A basic service provider must provide customers the option to receive a free white pages directory covering the local community in which the customer resides. For purposes of this definition, the local community shall include a geographic region at least equivalent to the area covered by the white pages directory that the existing COLR currently provides.
- (e) Because Verizon California, Inc. (Verizon) and other providers of basic service to customers residing in Verizon's service territory have been authorized to provide electronic delivery pursuant to Resolution T-17302, that authorization is compliant with the white pages directory requirement for basic service in Verizon's territory.

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- (f) The requirement to provide a free published directory can be satisfied using the procedures authorized in Resolution T-17302 in other territories upon the filing of a Tier 2 Advice Letter. Under this authorization, the affected customers will receive delivery of the directory electronically by CD-ROM or by on-line access, unless a customer affirmatively elects to receive a traditional printed paper copy by contacting the basic service provider under the procedures authorized in Resolution T-17302.

4. Billing Provisions

- (a) Providers of basic service must offer customers the option to receive unlimited incoming calls without incurring a per-minute or per-call charge.
- (b) Carriers offering basic service must offer a flat rate option for unlimited outgoing calls that at a minimum mirrors the local exchange or an equivalent or larger sized local calling area in which the basic service customer resides.
- (c) Basic service must be offered on a non-discriminatory basis to all residential households within the provider's service territory. A carrier may satisfy this obligation using different technologies throughout its service territory.
- (d) Basic service providers must offer Lifeline rates on a non-discriminatory basis to any customers meeting Lifeline eligibility requirements residing within the service territory where the provider offers basic service.
- (e) Carriers providing basic service must offer an option with monthly rates and without contract or early termination penalties.
- (f) Carriers may offer added features and/or enhanced service elements without additional charge(s) as part of a basic service offering. For example, carriers must not obligate customers to also subscribe to service bundles that require subscription to data and/or video services as a condition of receiving basic service.
- (g) As of January 1, 2011, the Commission no longer imposes caps on basic rates. A COLR serving in a high-cost area,

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however, will continue to be required to certify that its basic rate in a designated high-cost area does not exceed 150% of the highest basic rate charged by a COLR in California outside of the high-cost area.

5. Access to 800 and 8YY Toll-Free Services.

- (a.) Each provider of basic service must offer at least one basic service option that allows unlimited calls to 800 and 8YY toll-free numbers with no additional usage charges for such calls. A provider may offer alternative billing plans for basic service that may include usage charges for calls to 800 and 8YY toll-free numbers.
- (b) In any event, the carrier must provide full disclosure to the customer concerning how charges for 800 numbers would apply if the customer does not subscribe to an unlimited calling flat rate option.

6. Access to Telephone Relay Service as Provided for in Pub. Util. Code § 2881.

Basic service providers must offer free access to California Relay Service pursuant to § 2881 for deaf or hearing-impaired persons or individuals with speech disabilities.

7. Free Access to Customer Service for Information about Universal Lifeline Telephone Service (ULTS) Service Activation, Service Termination, Service Repair and Bill Inquiries.

The basic service provider shall provide free access to customer service for information about the above-referenced services.

8. One-Time Free Blocking for Information Services, and One-Time Billing Adjustments for Charges Incurred Inadvertently, Mistakenly, or Without Authorization.

Basic service must include the provision of one-time free blocking for 900/976 information services and one-time free billing adjustments for changes inadvertently or mistakenly incurred, or without authorization.

9. Access to operator services

Basic service shall include free access to operator services.

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II. General Requirements

In addition to the basic service elements and related requirements listed above, basic service shall be provided consistent with the following requirements.

- a) A basic service provider must file and maintain tariffs or schedules with the Commission by a Tier 2 Advice Letter for its basic service offerings which must include its basic service rates, charges, terms, and conditions; and must make them publicly available. Requirements for customer notice and/or Commission filings for revisions in basic service rates, charges, terms, and/or conditions must be made in accordance with the applicable requirements for tariff filings set forth in General Order 96-B.
- b) If a carrier chooses to offer basic service in all or part of its service territory using multiple, different technologies, each type of offering must be tariffed or scheduled with the Commission. This requirement does not extend beyond basic service.
- c) Each basic service provider must clearly inform all potential residential subscribers who contact the provider prior to initiating service of their option to purchase basic service and to subscribe to basic service on a month-to-month basis with no termed contracts.
- d) A provider must not represent to customers, or in advertising or by any other means, that any services, service elements, or service conditions, except those authorized by the Commission, constitute basic service in California.
- e) Until the Commission determines the extent to which new service quality standards should be adopted for carriers, a provider that wishes to offer basic service utilizing anything other than traditional exchange-based wireline technology that cannot comply with all the requirements of General Order 133-C must file a Tier 3 advice letter.

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- f) This filing must indicate what General Order 133-C service quality measurements and reporting procedures it can comply with, those it can provide functionally equivalent reporting information for and lastly what measurement and reporting requirements are not applicable to the technology it is using to provide basic service. This filing must further indicate how the new service or new technology maintains essential basic services or standards.

(END OF APPENDIX A)

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Appendix B - Cross-References of Existing to Revised Service Element Listings

(Page 1 of 1)

Element #	Existing Definition Elements from Decision 96-10-066	Cross-References to Revised Element List
1	Access to single-party local exchange service	(See Revised Element 1)
2	Access to interexchange carriers	(See Revised Element 1)
3	Ability to place and receive calls	(See Revised Element 1)
4	Ability to receive free unlimited incoming calls	(See Revised Element 4)
5	Free touch-tone dialing	(See Revised Element 1)
6	Free Unlimited Access to emergency services 911/E911	(See Revised Element 2)
7	Access to Local Directory Assistance	See Revised Element 3a)
8	Provision of Lifeline Rates for eligible customers	(See Revised Element 4)
9	Choice of "flat" or "measured" rate service	(See Revised Element 4)
10	Provision of free directory listing	(See Revised Element 3)
11	Provision of "white pages" telephone directory	(See Revised Element 3)
12	Access to operator services	(See Revised Element 9)
13	Voice-grade connection to the public switched telephone network	(See Revised Element 1)
14	Free Access to toll-free 8YY Services	(See Revised Element 5)
15	One-time free blocking for Information Services	(See Revised Element 8)
16	Access to Telephone Relay Service	(See Revised Element 6)
17	Free Access to information about Lifeline, service activation, etc.	(See Revised Element 7)

(End of Appendix B)

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APPENDIX C

Rules Governing Carrier of Last Resort

**(Excerpted from D.96-10-066, Appendix B
Adopted Universal Service Rules - Part 6. - California High Cost Fund-B)**

Part 6.D. Carrier of Last Resort

1. All of the incumbent local exchange carriers (LECs) listed in Attachment A of [Decision 96-10-066 rules] shall be designated as the carrier of last resort (COLR) in all their respective service areas at least until such time that another carrier or carriers are designated as the COLR.
2. Other qualified [competitive local carriers] may seek to become a designated COLR, or to compete in a Geographic Study Area (GSA) without being designated a COLR.
3. Only designated COLRs shall have access to the CHCF-B subsidy based on the number of residential customers that it serves in high-cost GSAs.
4. Designated COLR NOI: Those CLCs seeking to be designated a COLR shall file an advice letter in compliance with GO 96-A, stating that the carrier intends to be designated a COLR. The advice letter shall become effective in 40 days from the date of filing, unless a protest to the advice letter is filed. The advice letter shall contain a statement of the following, which the Commission will consider the following factors in deciding whether the COLR status should be granted:
 - a. The facilities the carrier has in place or the arrangements that the carrier plans to enter into in order to provide basic service; and
 - b. The ability of the carrier to promote the goals of universal service to all customer segments throughout the COLR's service area.
5. A designated COLR shall be required to serve all customers upon request, both residential and business, who are located within the COLR's designated service area as specified in subsection 6 below.

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6. A designated COLR shall be required to serve the following:
 - a. Until such time as provided for in Rule 6.D.1, above, all incumbent LECs in order to avail themselves of the subsidy for a high-cost GSA, shall be required to serve all the high-cost GSAs that are within the incumbent LEC's existing exchange area boundaries;
 - b. All CLCs who are designated COLRs in order to avail themselves of the subsidy of a particular high-cost GSA shall be required to serve the entire GSA(s) that is (are) within the CLC's designated service territory for which it has elected COLR status; and
 - c. A designated COLR may opt out of its obligations in a GSA by advice letter, unless it is the only carrier remaining in the GSA, in which case it must file an application to withdraw as the COLR, and continue to act as the COLR until the application is granted or a new COLR has been designated as a result of an auction.

(END OF APPENDIX C)

EXHIBIT C

ALJ/TJG/hma

Date of Issuance: 6/25/2024

Decision 24-06-024 June 20, 2024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Bell Telephone
Company d/b/a/ AT&T California
(U1001C) for Targeted Relief from its
Carrier of Last Resort Obligation and
Certain Associated Tariff Obligations.

Application 23-03-003

**DECISION DISMISSING WITH PREJUDICE THE APPLICATION OF AT&T
CALIFORNIA TO WITHDRAW AS A CARRIER OF LAST RESORT**

A.23-03-003 ALJ/TJG/hma

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DECISION DISMISSING WITH PREJUDICE THE APPLICATION OF AT&T CALIFORNIA TO WITHDRAW AS A CARRIER OF LAST RESORT

Summary

This decision grants the Motion to Dismiss, filed by the California Public Utilities Commission's (Commission) Public Advocates Office on June 30, 2023. Granting this motion dismisses with prejudice the Application of Pacific Bell Telephone Company d/b/a/ AT&T California (AT&T) "for Targeted Relief from its Carrier of Last Resort (COLR) Obligation" filed and served on March 3, 2023 and amended on May 17, 2023.

The Commission's COLR withdrawal rules, adopted in Decision (D.) 96-10-066 and affirmed in D.12-12-038, require either the presence of an existing COLR in the service territory a current COLR wishes to withdraw from, or for a new COLR to volunteer to replace the COLR seeking permission to withdrawal. No other COLR serves AT&T's service territory. No potential COLR applied to replace AT&T.

Given that AT&T's Application, as amended, does not meet the requirements of the Commission's COLR withdrawal rules, and the existing undisputed facts of this case make that clear, AT&T's Application is dismissed with prejudice.

This proceeding is closed.

Finally, the Commission intends to initiate an Order Instituting Rulemaking to consider whether to revise its COLR rules.

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1. Procedural Background

On March 3, 2023, Pacific Bell Telephone Company d/b/a/ AT&T California (AT&T) filed its Application “for Targeted Relief from its Carrier of Last Resort (COLR)¹ Obligation.”

On May 3, 2023, the assigned Administrative Law Judge (ALJ) ordered AT&T to amend its Application, due to substantial incompleteness.²

On May 17, 2023, AT&T filed its Amended Application.³

On June 30, 2023, Cal Advocates filed its Motion to Dismiss.

A prehearing conference (PHC) was held on August 3, 2023, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary.

¹ The definition of a COLR is “A local exchange service provider that stands ready to provide basic service to any customer requesting such service within a specified area. To be a COLR, the provider must meet Commission-approved qualifications.” A COLR is required to provide all elements of basic service, including:

- Offering customers the ability to place and receive voice-grade calls over all distances utilizing the public switched telephone network or successor network;
- Free access to 9-1-1/Enhanced (E) 9-1-1 service;
- Access to directory services;
- Billing Provisions;
- Access to 800 and 8YY Toll-Free Services;
- Access to Telephone Relay Service as provided for in Pub. Util. Code, § 2881;
- Free access to customer service for information about Universal Lifeline Telephone Service (ULTS) service activation, service termination, service repair and bill inquiries;
- One-time free blocking for information services, and one-time billing adjustments for charges incurred inadvertently, mistakenly, or without authorization; and
- Access to operator services.

Additional requirements of COLRs include participation in California LifeLine.

² For a number of reasons, the assigned ALJ found that AT&T’s application was deficient and insufficient to scope the proceeding, including that AT&T did not identify the specific areas or communities where it sought relief. *See* Ruling at 3.

³ Unless otherwise specified for the purposes of a citation, “Application” will refer to either AT&T’s Application or its Amended Application.

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On November 21, 2023, the Assigned Commissioner issued a Scoping Memo and Ruling, setting forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities Code (Pub. Util. Code) section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

On February 20, 2024, the assigned ALJ notified potential COLRs regarding AT&T's Application, as well as the opportunity to apply to replace AT&T as a COLR in those territories. Potential COLRs had until April 30, 2024 to inform the Commission if they wished to replace AT&T.^{4,5}

No potential COLR responded to the February 20 Notice by the April 30, 2024 deadline.

2. The Commission's COLR Rules

Assembly Bill (AB) 3643, enacted in 1994, directed the Commission to initiate a proceeding to ensure universal telecommunications service includes "[e]ssential telecommunications services" that is "provided at affordable prices to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations."⁶

In Decision (D.) 95-07-050, the Commission proposed that the incumbent Local Exchange Carriers (LEC) be the designated COLR in all of their service areas until such time that another carrier or carriers are designated to be a COLR. The Commission adopted its COLR rules in D.96-10-066, stressing that the COLR

⁴ On February 28, 2024, the assigned ALJ issued a ruling, apprising the Service List in this proceeding that the notice was served.

⁵ Ahead of the assigned ALJ serving the notice, parties received an opportunity to review and offer edits.

⁶ Stats. 1994, Ch. 278 (Polanco and Moore)

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concept “is important to universal service policy because it ensures that customers receive service.”⁷ All of the incumbent LECs listed in Attachment A of D.96-10-066 were designated as the COLR in all their respective service areas (also called geographic study areas, or GSAs) at least until such time that another carrier or carriers are designated as the COLR.⁸ To that end, the Commission’s COLR rules required a designated COLR to retain its obligations until another carrier is designated.⁹ The COLR Rules also include a procedure to replace the last remaining COLR.¹⁰

A designated COLR may opt out of its obligations GSA by advice letter unless it is the only COLR remaining in its service territory. If no other COLRs serve the territory in question, a COLR must file an application to withdraw as the COLR and continue to act as the COLR until the application is granted (because a new COLR has come forward) or a new COLR has been designated as a result of an auction.¹¹

In adopting D.12-12-038, the Commission affirmed, among other items, the Commission’s COLR withdrawal rules.

3. AT&T’s Amended Application

AT&T asks the Commission to relieve it of its COLR obligations in much of its service territory. Specifically, AT&T requests the following relief:

⁷ D.96-10-066 at 109.

⁸ *Id.*, at 163.

⁹ *Id.*, at 109.

¹⁰ *Id.*

¹¹ *Id.*

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- In areas where “voice alternatives”¹² that offer voice service, AT&T would be relieved of its COLR obligations;
- AT&T customers would have a six-month transition period;
- Modification to AT&T’s basic service tariff; and
- For areas currently without voice alternatives, the Commission would adopt an Advice Letter process for when those areas become served by voice alternatives.¹³

AT&T contends the COLR obligation made sense during an era of monopolies, but makes no sense today, given the current marketplace. AT&T asserts its COLR customers have a number of alternatives for voice services, including VoIP service from cable companies such as Comcast or Cox, and mobile voice service from providers such as Verizon, T-Mobile, and AT&T Mobility.¹⁴ AT&T also insists its COLR responsibilities unfairly discriminate against AT&T, placing the carrier at a competitive disadvantage versus these other companies which, unburdened by COLR requirements, are able to innovate and otherwise respond to market forces.¹⁵ AT&T also claims that the funds it spends on expenses related to its duties as a COLR “could” instead be used on other activities.¹⁶

¹² *Application of Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) for Targeted Relief from Its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations* (AT&T’s Application), filed March 3, 2023, at 38. “Voice alternatives” are providers of wireline VoIP and fixed and wireless voice services. Note: AT&T’s “alternative voice providers” are not COLRs.

¹³ AT&T’s Application at 37-38.

¹⁴ *Id.*, at 3.

¹⁵ *Id.*, at 3-4.

¹⁶ AT&T repeatedly uses the words “could” or “would” as part of its claims that funds spent on its COLR obligation might be used on other activities. See AT&T’s Amended Application at 14: “With freed-up resources, AT&T California could deploy fiber broadband to additional

Footnote continued on next page.

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AT&T opines that the Commission has broad authority to grant the relief it requests, citing Pub. Util. Code §§ 1708,¹⁷ 701,¹⁸ 709¹⁹ and 709.5.²⁰ AT&T further

households in rural areas across the state...” See also AT&T’s Amended Application at Attachment A 1 (Declaration of Dr. Mark Israel): “...[the] COLR obligation ties up scarce resources that could better serve consumers elsewhere, including via reallocation to investment in the superior technologies.” See also, AT&T’s Amended Application at 13: “The COLR relief sought here would free up critical resources for similar efforts around the state.” Here, AT&T is referring its work with customers who are eligible to participate in the federal Affordable Connectivity Program, as well as five Connected Learning Centers in Los Angeles. At no time does AT&T specifically commit to any activities if the Commission grants its requested relief.

¹⁷ “The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it.”

¹⁸ “The commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.”

¹⁹ AT&T cites, in part, to §§ 709. In full, § 709 reads as follows:

“The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:

- (a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.
- (b) To focus efforts on providing educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications services in recognition of their economic and societal impact.
- (c) To encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.
- (d) To assist in bridging the “digital divide” by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.
- (e) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure.
- (f) To promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct.

Footnote continued on next page.

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declares that the Commission's intended policy is that once competition takes root, COLR status is voluntary, with carriers not only applying to become COLRs, but also requesting permission to withdraw.²¹

4. Issues Before the Commission

The Assigned Commissioner's Scoping Memo and Ruling identified the issues to be determined or otherwise considered, including those listed below.

1. Does this application meet the Commission's Universal Service Rules and standards in D. 96-10-066, as well as the definition of universal service and obligations therein?
2. Should AT&T be relieved of its COLR obligation?
3. Are other potential COLRs interested in replacing AT&T's COLR service? Where has AT&T demonstrated there are alternative COLRs?
4. Would granting this application impact public safety, including for residents in High Fire Threat Districts and Flood Zones? If yes, what is the impact? For example, will it impact access to emergency services during an emergency?
5. Would not granting this application negatively impact AT&T's ability to offer voice or broadband service in

(g) To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

(h) To encourage fair treatment of consumers through provision of sufficient information for making informed choices, establishment of reasonable service quality standards, and establishment of processes for equitable resolution of billing and service problems."

²⁰ § 709.5 (a) reads as follows: "It is the intent of the Legislature that all telecommunications markets subject to commission jurisdiction be opened to competition not later than January 1, 1997. The commission shall take steps to ensure that competition in telecommunications markets is fair and that the state's universal service policy is observed."

²¹ *Application of Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) for Targeted Relief from Its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations (AT&T's Application)*, filed March 3, 2023, at 6.

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California? Where would AT&T spend funds if it eliminates its COLR obligation that it would not spend otherwise?

6. Will granting the application result in a direct or reasonably foreseeable indirect physical change in the environment such that such environmental review pursuant to the California Environmental Quality Act (CEQA) is required?
7. Does the requested action have any impact on environmental and social justice communities, including the extent to which it impacts the achievement of any of the goals of the Commission's Environmental and Social Justice Action Plan? Are there other impacted individuals, such as persons with disabilities?
8. Do the potential benefits of granting this application exceed any potential negative effects on customers?
9. Should the Commission adopt Applicant's proposed Advice Letter process for communities it asserts currently do not have another voice option beyond AT&T California?

5. Cal Advocates' Motion to Dismiss

Cal Advocates requests the Commission dismiss the Application with prejudice, or dismiss without prejudice "and make clear that if AT&T continues its failure to comply with rulings and rules, its application will be dismissed with prejudice."²² Cal Advocates asserts AT&T's Application does not comply with the Commission's COLR Rules, and is incompatible with California's

²² Motion of Cal Advocates to Dismiss Amended Application of Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) for Targeted Relief from Its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations (Motion to Dismiss), filed June 30, 2023, at 1-2.

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commitment to universal service, espoused in AB 3643 and Pub. Util. Code § 709(a).²³

Relying on D.18-11-028 and D.99-11-023, among other authorities, Cal Advocates argues the Commission must dismiss an application when the outcome is a forgone conclusion.²⁴

6. AT&T's Response

AT&T claims that Cal Advocates' argument "pushes the envelope of advocacy."²⁵ AT&T also opines that Rule 6.D.7 of the Commission's Universal Service Rules provides that a carrier that has applied for COLR relief must "continue to act as the COLR" only until *either* (emphasis added) "[1] the application is granted *or* (emphasis added) [2] a new COLR has been designated as a result of an auction."²⁶ AT&T claims the Commission may grant its COLR relief application for good cause shown, whether or not it has designated a new COLR. AT&T further contends that Cal. Pub. Util. Code §§ 1708 and 701 allow the Commission to "rescind, alter, or amend any order or decision made by it, including when market conditions underlying the decision "have undergone a material change."²⁷

²³ "The Legislature hereby finds and declares that the policies for telecommunications in California are as follows: (a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high quality telecommunications services to all Californians. . ."

²⁴ Motion to Dismiss at 5-6.

²⁵ *Pacific Bell Telephone Company D/B/A AT&T California's Response to the Motion to Dismiss of the Public Advocates Office at the California Public Utilities Commission* (AT&T's Response), filed July 14, 2023, at 2.

²⁶ *Id.*

²⁷ AT&T's Response at 3.

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Additionally, AT&T argues that the Commission abandoned the reverse auction mechanism in D.14-06-008.

7. COLR Withdrawal Rules

Under Appendix C, Section 6(c) in D.12-12-038 and Appendix B, Section C in D.96-10-066, the Commission can grant a COLR withdrawal application in one of two ways: (a) another carrier is identified and is willing to serve as a COLR or (b) a reverse auction is held, the result of which another carrier comes forward and is willing (and able) to serve as a COLR. If no replacement COLR is identified in the application or if a replacement COLR does not come forward once the application has been filed, the Commission must hold a reverse auction. The Commission cannot grant an application to withdraw as a COLR if there is no replacement COLR.

Appendix B contains the Commission's Universal Service Rules, including 6.D.1, which designates all incumbent LECs listed in Attachment A as the COLR in all their respective service areas at least until such time that another carrier or carriers are designated as the COLR,²⁸ and Rule 6.D.7, which allows a designated COLR to may opt out of its obligations by advice letter, unless it is the only carrier remaining in the service territory or a new COLR has been designated as a result of an auction.²⁹

Although AT&T argues that the "or" in Rule 6.D.7 indicates that the Commission could just grant its application without a new designated COLR in place, that is not only an inaccurate reading of the Commission's COLR Rules, but it would render the COLR and Universal Service Rules meaningless. The

²⁸ D. 96-10-066 at 163.

²⁹ *Id.*

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Commission cannot ignore the other COLR Rules requiring a designated COLR, or the statute and Rule's clear intent for universal service to operate as a safety net. The accurate and more consistent reading of 6.D.7 is the last COLR must continue its obligations until the application is granted, because another carrier has entered the market and taken on COLR obligations.

8. Standard for Granting a Motion to Dismiss

The Commission treats a motion to dismiss as a court of general jurisdiction would treat motions for summary judgment in civil practice.³⁰ While there is no Commission rule expressly for summary judgment motions, Rule 11.2 of the Commission's Rules of Practice and Procedure allows parties to file a motion to dismiss a proceeding based on the pleadings (other than a motion based upon a lack of jurisdiction) by no later than five days prior to the first day of hearing. The Commission has held that the purpose of both types of motions is to permit determination before hearing whether there are any triable issues as to any material fact.³¹ The interpretation of a statute or regulation is generally seen to be a pure legal issue.³²

A further purpose of such a motion is that it promotes and protects the administration of justice and expedites litigation by the elimination of needless

³⁰ *Westcom Long Distance, Inc. v. Pacific Bell et al.*, Decision (D.) 94-04-082, 54 CPUC2d 244, 249.

³¹ *Id.*

³² See *Manriquez v. Gourley*, 105 Cal. App. 4th 1227, 1234-35 (2003), quoting from *Culligan Water Conditioning v. State Bd. of Equalization*, 17 Cal.3d 86, 93 (1976).

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trials.³³ As such, where appropriate, the Commission regularly grants motions for summary judgment or summary adjudication.³⁴

When reviewing a motion to dismiss, the Commission assumes “the facts as alleged in the application are true for the purposes of deciding whether to grant a motion to dismiss... [and]... the applicant will be able to prove everything the applicant alleged in its application...”³⁵ However, the Commission does “not accept as true the ultimate facts, or conclusions, that Applicant alleges, for instance, that granting the [application] would be in the public interest.”³⁶ Applications have been dismissed on policy grounds, to husband limited resources, to avoid conflict with statutory policy, to avoid inefficiency, “and many other reasons.”³⁷ Additionally, the Commission has held that, “[a]fter accepting the facts as stated, the Commission then merely looks to its own law and policy. The question becomes whether the Commission and the parties would be squandering their resources by proceeding to an evidentiary hearing when the outcome is a foregone conclusion under the current law and

³³ Westcom Long Distance, Inc. v. Pacific Bell et al., D. 94-04-082, 54 CPUC2d 244, 249.

³⁴ See D.07-07-040 (granting Chevron judgment against Equilon “as a matter of law”); D.07-01-004 (granting Cox Telecom judgment against Global NAPs of California); D.02-04-051 (granting summary adjudication of a claim by County Sanitation District against Southern California Edison Company).

³⁵ *Application of GoGo Technologies, Inc. (dba GoGoGrandparent) for order declaring Applicant to be a non-regulated entity; to stay enforcement action pending resolution*, D.18-11-028 (2018 WL 6566916 at 2) (quoting *Application of Western Gas Resources-California, Inc. for a Certificate of Public Convenience and Necessity to Provide Public Utility Gas Transmission and Distribution Services*, D.99-11-023, 1999 Cal. PUC LEXIS 856, 10-11 (Cal. PUC 1999)).

³⁶ *Id.*

³⁷ D.99-11-023 at 2.

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policy of the Commission.”³⁸ While the Commission may elect to alter policy in connection with an application, it can make the choice not to do so at the outset of an application in response to a motion to dismiss.³⁹

Cal Advocates filed its Motion to Dismiss on June 30, 2023 and no hearing has been held in this proceeding.

9. Based on the Existing Record AT&T’s Legal and Factual Analysis is Fatally Flawed

The purpose of the Commission’s COLR Rules is to ensure that there is a public utility which is obligated to serve all the customers that request service in its service area.⁴⁰

There can be no misconstruing the Commission’s intent, even though AT&T attempts to do that, with its argument that the Commission’s COLR Rules allow the Commission to grant AT&T’s application without the presence of a replacement COLR.

AT&T’s Application contains additional flaws that it cannot overcome.

9.1. The Commission Must Allow Potential Replacement COLRs to Replace AT&T

AT&T has repeatedly misstated that, in adopting D.14-06-008, the Commission abandoned the reverse auction mechanism in D.96-10-066.⁴¹ As noted in the Assigned Commissioner Scoping Memo and Ruling for this

³⁸ *Id.*, at 3.

³⁹ *Id.*

⁴⁰ D.96-10-066 at 193.

⁴¹ In addition to making this incorrect claims in filings, AT&T representatives repeated its incorrect statement at the PHC (*See*, Reporters’ Transcript, August 3, 2023, at 92:6-93:8) at an ex parte meeting with advisors for the assigned Commissioner and another Commissioner (*See*, Notice of Ex Parte Communication of AT&T California, filed February 16, 2024 at 3-4) and at another ex parte meeting with advisors for another Commissioner (*See*, Notice of Ex Parte Communication of AT&T California, filed February 29, 2024 at 2-4).

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proceeding, D.14-06-008 concerns calculating cost support amounts, not the safety net auction to identify a COLR that would replace the COLR seeking to withdraw from a specific territory.⁴² D.14-06-008 does not impact the Commission's ability to carry out a COLR auction process. A more thorough review of R.09-06-19 confirms this.

D.14-06-008 was issued in R.09-06-019, an Order Instituting Rulemaking (OIR) Regarding Revisions to the California High Cost Fund B Program. D.14-06-008 adopted provisions to implement updated methodologies to calculate cost support amounts. Amending High Cost Fund B support amount is a completely separate issue from amending the COLR requirement, including changing the requirement for a reverse auction.

The full reference in D.14-06-008 that AT&T relies on is:

"Although we initially undertook to further consider the issue of a reverse auction process in this rulemaking, the assigned Commissioner ultimately determined to first address updating basic telephone service requirements before considering the merits of a reverse auction or other measures to update high cost support amounts."⁴³ (*emphasis added*)

The Assigned Commissioner's Amended Scoping Memo and Ruling for R. 09-06-019, issued January 23, 2013, is even more explicit that the reverse auction discussed was focused on setting high-cost support amounts:

"Prior to the most recent Amended Scoping Memo, this proceeding had been considering the design of a reverse auction as a mechanism to set high-cost support amounts based on market forces. The assigned Commissioner, however, had determined to address the updating of

⁴² See, Footnote 4

⁴³ D. 14-06-008 at 5.

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requirements for basic telephone service as a priority before considering whether to continue to implement a reverse auction or to pursue other measures to update high cost support amounts.”⁴⁴

Furthermore, in order to amend the reverse auction process adopted in D.96-10-066 (and reaffirmed in D.12-12-038), the Commission would have needed to scope the issue in R.09-06-019 and provide parties to R.95-01-020/I.95-01-021 (the proceedings in which D.96-10-066 was issued) with notice and an opportunity to be heard on this issue in order to comply with Pub. Util. Code § 1708.

The Commission did neither of these things. The reverse auction process to replace COLRs/allow for a COLR withdrawal as adopted in D.96-10-066, and affirmed in D.12-12-038, has never been amended. Furthermore, consistent with Pub. Util. Code § 1708, the Commission typically revises industry-wide rules issued in a rulemaking in a new industry-wide rulemaking, not in an application filed by a particular provider for specific relief.

The only way to not hold a reverse auction in the current AT&T COLR proceeding would be to give notice and opportunity to be heard to the service lists of R.95-01-020/I.95-01-021 and R.09-06-019 because the Commission would be deviating from the requirements of D.96-10-066 and D.12-12-038, which would take a significant amount of time.

It would also not make sense to address the reverse auction within the confines of AT&T’s Application, as D.96-10-066 and D.12-12-038 were issued in rulemakings, and this is an industry-wide issue.

⁴⁴ Assigned Commissioner Amended Scoping Memo and Ruling (R. 09-06-019), issued January 29, 2013, at 2.

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Thus, under the COLR Rules, the Commission must conduct the reverse auction process.

9.2. No Potential COLR Volunteered to Replace AT&T

AT&T has already indicated that there is not another COLR in AT&T's service territory.⁴⁵ Further, no carrier eligible to replace AT&T as a COLR volunteered to do so.

9.3. AT&T's Proposed Alternatives are not COLRs

The alternatives for voice service that AT&T claims can replace its COLR service -- including VoIP service from cable companies such as Comcast or Cox, and mobile voice providers such as Verizon, T-Mobile, and AT&T Mobility⁴⁶ -- do not meet the definition of a COLR.⁴⁷ These companies did not apply to be COLRs and the Commission has not designated them as such. The voice alternatives AT&T claims can replace its COLR service are not required to offer voice service to everyone that requests it. Further, these companies may not even be able to meet that requirement.

Depending on the area in question, a cable company may need to build out its network in order to meet the requirement of offering service to any potential customers that request the service. In the case of the mobile voice providers, many comments at public participation hearings and on the Docket Card for this proceeding⁴⁸ call into question whether the companies are able to offer service to

⁴⁵ Amended Application at 7-8 and PHC Transcripts at 13:22-24.

⁴⁶ *Id.*, at 3.

⁴⁷ AT&T does not claim otherwise.

⁴⁸ Examples of these public comments include, but are not limited to, the ones discussed below. Public Comment of Wallace Stahl, Reporters' Transcript, Ukiah, California, February 22, 2024 at 292:9-15:

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~~every potential customer~~ that requests it, given the gaps in these wireless

"These existing lines still go to where the signals, tower signal dependent cell towers don't reach ... allowing AT&T to abandon the far flown customers who live outside or below the available microwave signals stopped by the mountains or below them in canyons like (indecipherable) and Brooktrails just a mile or two outside of Willits."

Public Comment of Neil Altimari, Reporters' Transcript, Ukiah, California, February 22, 2024 at 293: 24-295:9:

"...I live locally here in Mendocino County, Redwood Valley... we have got two cell phone carriers up there, and I have my landline through AT&T. One cell phone is through T-Mobile and it gets one bar, a lot of dropped calls; and another one is through AT&T, and it gets one bar and a lot of dropped calls... I work up here in Laytonville California (indecipherable) if you're not sure where it's at. And in that fire station -- in the fire station, I have got no cell phone service through T-Mobile and nothing on the AT&T cell phone..."

Public Comment of Victor Aparicio, Reporters' Transcript, Ukiah, California, February 22, 2024 at 299:7-300:9:

"I am a tribal member from the Manchester Point Arena Band of Pomo Indians. I am also on the Board of Trustee for Point Arena School District..."

I heard ... the AT&T rep, talk about Comcast and all these wonderful things and, you know, AT&T wireless and all of that. Well, anybody that lives on the South Coast in Point Arena specifically knows that that is merely impossible.

I am the water operator for my tribe. I was a former tow truck driver also, and I covered almost 100 miles of ... land while I was a tow truck driver and probably had cell service maybe 30 percent of the time...

[My Aunt] can't get cell service out where she's at because of the -- because of the trees. So, there is no help for her. She's tried T-Mobile, AT&T, Verizon, US Cellular, none of them work..."

Public Comment of Liz Cooper, Browns Valley, CA, submitted on April 28, 2024:

"...I live in the Yuba County Foothills. My home is in a valley and does not receive any cell phone coverage unless I climb up a hill about 1000 yards..."

Public Comment of Armen Carlon, Forest Ranch, CA, submitted on April 28, 2024:

"The proposed map submitted by AT&T for relief from landline obligations is absolutely NOT correct for our address.... The alleged wireless coverage at this location is unreliable and cannot be depended on in an emergency, such as the Camp Fire, when wireless communications systems were rendered useless. This is a safety and hazard issue, and removing this service will put lives in danger..."

Public Comment of William Carriere, Glenn, CA, submitted on April 26, 2024:

"Our home is located along the Sacramento River in Glenn County. Cell service is spotty at best. This area is completely covered in Blue by the map, indicating that service exists.

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providers' coverage due to changes in terrain, dense foliage, geographic or structural obstacles and other characteristics that limit wireless signal propagation.⁴⁹

The Commission's COLR Rules do not allow for non-COLR alternatives to replace a COLR. Further, during the 2015-2016 session, the Legislature considered legislation, AB 2395, that, if passed into law, would have changed

I have calls dropped all the time along the river and especially along Hwy 45 in Glenn and Colusa counties. Unfortunately T-Mobile, Verizon and others I have tried are even worse than ATT, so stuck with spotty ATT service."

⁴⁹ The Commission has made similar observations regarding wireless eligible telecommunication carriers not being able to serve everywhere in their claimed service territories. *See, e.g.,* Resolution T-17437, which conditionally approved the ETC application of TAG Mobile, LLC at 15, Resolution T-17436, which conditionally approved the ETC application of Boomerang Wireless, LLC, at 15, Resolution T-17466, which conditionally approved the ETC application of Global Connection, Inc. of America, doing business as "Stand Up Wireless," at 14 and Resolution T-17448, which conditionally granted the ETC application of Air Voice Wireless, LLC at 17:

"Although wireless phone service offers great mobility for consumers, there are safety concerns related to wireless mobile phone service and E-911 and/or 911 connection limitations. Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own direct customers."

See also, Resolution T-17473, which conditionally approved the ETC application of Blue Jay Wireless, LLC at 11: "Blue Jay will require consumers to make an outbound call to activate their service." At 18:

"CD staff has safety concerns in two main areas of wireless phone service: the coverage of wireless mobile phone service and the ability of emergency first responders to find the location of the caller when using a mobile phone.

Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own customers. An incomplete emergency call can have devastating results."

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existing law to allow for the relief AT&T seeks in its Application, if these purported alternatives met certain requirements.⁵⁰ That legislation did not pass. In essence, AT&T seeks to effectuate the relevant portion of AB 2395, while asking the Commission to overlook that AB 2395 never became law. The Commission's COLR Rules currently do not allow for such relief, as the alternatives AT&T suggests might replace it are not COLRs, which could lead to customers being denied voice service.

10. Application Dismissed with Prejudice

The law and facts of this case are such that AT&T's Application must be dismissed with prejudice. The Commission's COLR Rules require the presence of another COLR, either one already in place or one willing to replace AT&T, for the Commission to relieve AT&T of its COLR duties. No other COLR serves AT&T's service territory and no potential COLR volunteered to replace AT&T. Thus, even if AT&T were to prove all other facts it asserts, its Application still fails to meet this standard.

It is not clear why AT&T filed this Application, under existing rules, and then attempted to convince the Commission that it should ignore its rules, based on flawed and erroneous assertions regarding the law and regulatory policy that slowed down the adjudication of this proceeding. The scope of this Application

⁵⁰ The bill would require the alternate service to provide, among other functions:

- Voice grade access to the public switched telephone network or its successor;
- Real-time, two-way voice communications;
- Access to 911; and
- Backup-battery capability meeting FCC standards (for household customer premise equipment). Notably missing from these requirements are critical basic service components such as access to LifeLine and relay services.

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is not modest, as AT&T claims.⁵¹ If AT&T had wished to make industry-wide changes to the Commission's COLR Rules, it could have filed a Petition for Rulemaking under Rule 6.3 of the Commission's Rules of Practice and Procedure.

Given the unsuitability of this Application, the resources that another application would require, and the fact that the Commission intends to initiate a rulemaking regarding its COLR Rules, AT&T's Application is dismissed with prejudice. AT&T shall not file another application for COLR relief, nor a similar one, until one year after the issuance of a decision closing the new OIR discussed in Section 14.

11. AT&T Already is Able to Modernize its Network

At least publicly, AT&T has attempted to present its Application as an attempt to modernize its network. This effort includes a letter AT&T sent to customers on April 8, 2024, as well as the following statement from an AT&T representative at the public participation hearing held on February 22, 2024 in Ukiah:

"We are simply asking the PUC to work with us in a proven, measured, thoughtful, and transparent way to ensure that our customers in California have access to the most advanced reliable technology available."⁵²

AT&T's public arguments paint the picture that the Commission's COLR Rules require AT&T to retain outdated copper-based landline facilities that are expensive to maintain, or that AT&T needs Commission approval in order to be able to retire copper facilities and instead, invest in more modern technologies such as VoIP, wireless, and fiber.

⁵¹ Amended Application at 4-5.

⁵² Reporters' Transcript, Ukiah, California, February 22, 2024, at 127:4-7.

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These arguments are not accurate.

The Commission does not have rules preventing AT&T from retiring copper facilities.⁵³ Furthermore, the Commission does not have rules preventing AT&T from investing in fiber or other facilities/technologies to improve its network. Indeed, AT&T reported that in Q2-4 2023 it invested over \$150 million on fiber deployment projects in California.⁵⁴ If AT&T's arguments were accurate, this activity would be illegal.

Finally, it should be noted that the Commission defines a COLR as a local exchange carrier, the COLR Rules do not distinguish between the voice services offered (VoIP vs. POTS).

12. Summary of Public Comment

Rule 1.18 of the Commission's Rules of Practice and Procedure 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 comment submitted in a proceeding be summarized in the final decision issued in that proceeding. The Commission has received more than 5,000 public comments on the Docket Card in this proceeding, in addition to the public comments made at public participation hearings, at Commission voting

⁵³ D.08-11-033 adopted the process governing retirement of copper loops and related facilities to provide telecommunications services by ILECs such as AT&T. In that decision, the Commission declined to adopt rules for the retirement of copper facilities. The Commission did adopt notification requirements and rules regarding CLEC requests to purchase the copper facilities from the ILECs. However, these requirements and rules do not include any limitations or restrictions to the ILECs' ability to retire copper facilities.

⁵⁴ See, AT&T California's Revised Corrective Action Plan [Supplemental Advice Letter No.49420B of Pacific Bell Telephone Company d/b/a AT&T California (U-1001-C)], filed June 23, 2023, at 9. The actual amount is confidential.

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meetings, and other venues. There has also been considerable interest and engagement from elected officials through letters to the Commission and local initiatives. An overwhelming majority of public comments do not support AT&T's Application.

13. Procedural Matters

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

14. Ordering Instituting Rulemaking

Given the age of its COLR rules, as well as changes in the marketplace, it is appropriate for the Commission to consider whether its COLR rules should be revised, and, if so, how the rules should be revised.

15. Comments on Proposed Decision

The proposed decision of ALJ Thomas J. Glegola 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 Practice and Procedure.

On May 30, 2024, the following parties filed opening comments: Cal Advocates, CforAT, TURN, AT&T, RCRC, County of San Mateo, County of Santa Clara, Tahoe Energy Ratepayers Group, and Catalina Island Connect. On June 4, 2024, the following parties filed reply comments: AT&T, TURN, Cal Advocates, and CforAT.

No revisions have been made to this decision.

16. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Thomas J. Glegola is the assigned Administrative Law Judge in this proceeding.

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Findings of Fact

1. The definition of a COLR is a local exchange service provider that stands ready to provide basic service to any customer requesting such service within a specified area. To be a COLR, the provider must meet Commission-approved qualifications.

2. The purpose of the COLR is to ensure that there is a public utility which is obligated to serve all the customers in its service area that request service.

3. D.96-10-066 designated the incumbent LECs as the COLR in all of their service areas until such time that another carrier or carriers are designated to be a COLR.

4. No hearing has been held in this proceeding.

5. AT&T is the only COLR in its service territory.

6. No potential COLR volunteered to replace AT&T as a COLR.

Conclusions of Law

1. The Commission's Universal Service Rules, adopted in D.96-10-066 and affirmed in D.12-12-038, require the presence of another COLR or a replacement COLR to grant a COLR withdrawal application.

2. The Commission's Universal Service Rules, adopted in D.96-10-066 and affirmed in D.12-12-038, require the Commission to offer potential COLRs the opportunity to replace AT&T as a COLR.

3. The Commission's Universal Service Rules, adopted in D.96-10-066 and affirmed in D.12-12-038, require the presence of another COLR or a replacement COLR to grant a COLR withdrawal application.

4. The Commission should dismiss this application.

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O R D E R

IT IS ORDERED that:

1. The Application of Pacific Bell Telephone Company d/b/a/ AT&T California (U1001C) for Targeted Relief from its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations is dismissed, with prejudice.

2. Pacific Bell Telephone Company d/b/a/ AT&T California (U1001C) shall not file another application for relief from its Carrier of Last Resort obligations until at least one year after the issuance of a decision closing the new Order Instituting Rulemaking discussed in Section 14.

3. Pacific Bell Telephone Company d/b/a/ AT&T California (U1001C) shall not file a similar application to the dismissed application until at least until one year after the issuance of a decision closing the new Order Instituting Rulemaking discussed in Section 14.

4. Application 23-03-003 is closed.

This order is effective upon issuance.

Dated June 20, 2024, at San Luis Obispo, California.

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners

Commissioner Matthew Baker recused himself from this agenda item and was not part of the quorum in its consideration.

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EXHIBIT D

COM/CRC/mto

Date of Issuance 11/13/2008

Decision 08-11-033 November 6, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking Regarding Whether to Adopt, Amend, or Repeal Regulations Governing the Retirement by Incumbent Local Exchange Carriers of Copper Loops and Related Facilities Used to Provide Telecommunications Services.

Rulemaking 08-01-005
(Filed January 10, 2008)

**DECISION ADOPTING PROCESS GOVERNING RETIREMENT BY
INCUMBENT LOCAL EXCHANGE CARRIERS
OF COPPER LOOPS AND RELATED FACILITIES USED TO PROVIDE
TELECOMMUNICATIONS SERVICES**

1. Summary

The Commission declines to adopt CALTEL's proposed rules requiring California's incumbent local exchange carriers to seek this Commission's permission before permanently retiring copper wire local loops from the telephone network.¹ We find that the party requesting such rules, the California Association of Competitive Telecommunications Companies (CALTEL), has not

¹ For the purposes of this proceeding, we define copper retirement as the replacement of copper loops or copper subloops with fiber to the home or fiber to the curb loops, as referred to in the Federal Communications Commission's *Triennial Review Order* and in 47 C.F.R. § 51.333(b)(2). See also *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Development of Wireline Services Offering Advanced Telecommunications Capability*, 18 FCC Rcd 16978 (2003) (TRO) at ¶ 281.

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demonstrated a current need for action by this Commission. We also believe that the rules proposed by CALTEL will discourage and delay fiber systems from being built in California, contrary to clear state legislative direction to bring affordable and widespread high quality communications services to all Californians. We therefore decline to adopt the proposed CALTEL rules at this time; however, as discussed below, we do establish a notice and negotiation process at the state level for the incumbent local exchange carriers (ILECs) to comply with when retiring copper loops.

We find that CALTEL has not demonstrated any current harm that necessitates the issuance of its proposed rules.² The record of this proceeding contains no evidence showing that the installation of facilities to replace the copper network by ILECs has resulted in adverse impacts to consumers or competition. However, we will require the ILECs to file *concurrently* with our Communications Division any notices of network changes that the carriers file with the Federal Communications Commission (FCC) for fiber to the home (FTTH) or fiber to the curb (FTTC) deployment that results in the retirement of copper plant. Filing such notices with our Communications Division staff will allow this Commission to monitor ILEC copper retirement practices. The FCC has found, and we concur, that such notices will ensure that incumbent and competitive carriers can work together to ensure the competitive LECs maintain

² We note that evidence of harm or absence of harm is not the standard for adopting rules in a quasi-legislative proceeding. However, we have considered harm, in addition to other factors, including our pro-investment policies, in determining whether to adopt CALTEL's proposed rules.

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access to loop facilities. We strongly encourage the carriers to coordinate in such instances to ensure that service to CLEC customers is not unduly disrupted.

Moreover, to facilitate negotiations to access the loop, we will require the ILEC to serve concurrently with its filing at the CPUC, notice of the copper retirement upon all CLECs that are interconnected with the ILEC, regardless of whether the CLEC is serving customers currently on the specific retiring copper loop.³ Within 20 days of the date that the notice of network change has been filed with the FCC, the CLEC must request, in writing, negotiations with the ILEC either to purchase the entire copper loop from the ILEC or to reach an agreement with the ILEC on price and terms and conditions for continued access to loop facilities. The CLEC shall include in its request for negotiations the following information:

- a. Whether the CLEC seeks to purchase the copper loop, or whether the CLEC seeks only to have the ILEC maintain access to a loop;
- b. the number of current or planned customers on the copper loop;
- c. the services that the CLEC provides over the loop or plans to provide over the loop; and
- d. the number of UNEs that the CLEC currently purchases.

We will require the ILEC to enter into good faith negotiations with the CLEC for a period of 60 days either to sell the copper loop at issue at fair market

³ Effectively, the ILEC shall serve its notice on CLECs and Commission Communications Division staff at the same time that it files it with the FCC. By copper loop, we refer to the copper “transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and the loop demarcation point at an

Footnote continued on next page

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value; or to reach a fair and equitable agreement with the CLEC on price and terms to ensure access to loop facilities. A “fair and equitable” agreement for access to the copper loop should include all fair and reasonable costs incurred by the ILEC for maintaining access to the copper loop facility for the requesting party, vis-à-vis the retirement of the copper loop facility. If a requesting party seeks to purchase the copper facility from the ILEC, the price shall be the fair market value of the copper facility to the ILEC, and all maintenance and operating costs of the copper facility thereafter shall be the responsibility of the purchasing party from the date of purchase.

2. Background

Copper wiring has been used in telephone networks across the country for more than 100 years, but as fiber optic cable becomes more widely used, competitive local exchange carriers (CLECs) and consumer groups have raised questions about whether this Commission should impose rules to preserve the copper facilities in order to safeguard choices by consumers and protect competition by CLECs.

We therefore opened this rulemaking on CALTEL's petition (Petition (P.) 07-07-009) to examine: (1) whether we should establish procedural rules that ILECs and others must follow when an ILEC intends to retire or permanently remove copper loop facilities, and if so, what the rules should be; (2) whether we should adopt substantive prohibitions or conditions on the removal of such facilities, and, if we require that the facilities be maintained, who shall pay for such maintenance; and (3) whether ILECs are permanently removing copper

end-user customer premises, including inside wire owned by the incumbent LEC.” *See TRO*, at n. 638.

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drops and, if so, what action we may take to ensure their replacement where a customer so requests.

In examining these issues, we specifically reviewed the extent to which ILECs that are installing fiber are removing the copper network, whether customers or ILEC competitors have been harmed by any such practice, and whether we should adopt rules to preserve the copper network for future generations.

In addition to the comments and data we received in response to P.07-07-009, we took comments in connection with this Rulemaking. CALTEL, Integra Telecom of California, Inc. (Integra), the United States Department of Defense/Federal Executive Agencies (DOD/FEA), the Commission's Division of Ratepayer Advocates (DRA), and The Utility Reform Network (TURN) filed comments generally supporting CALTEL's proposed rules, while the ILECs – Pacific Bell Telephone Company dba AT&T California (AT&T), Verizon California Inc. (Verizon), SureWest Telephone (SureWest) and the small California ILECs⁴ (Small LECs) – each filed comments, data request responses, or both in P.07-07-009 (with comments filed on August 13, 2007, August 23, 2007,

⁴ Calaveras Telephone Company (U1004C), Cal-Ore Telephone Co. (U1006C), Ducor Telephone Company (U1007C), Foresthill Telephone Co. (U1009C), Global Valley Networks, Inc. (U1008C), Happy Valley Telephone Company (U1010C), Hornitos Telephone Company (U1011C), Kerman Telephone Company (U1012C), Pinnacles Telephone Co. (U1013C), The Ponderosa Telephone Co. (U1014C), Sierra Telephone Company, Inc. (U1016C), The Siskiyou Telephone Company (U1017C), Volcano Telephone Company (U1019C), Winterhaven Telephone Company (U1021C) (“Small LECs”).

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and October 16, 2007, and data request responses⁵ filed on October 4, 2007) and in this proceeding (with comments filed on March 14, 2008 and May 28, 2008).

We sought information from the ILECs as to whether they were permanently removing or retiring copper facilities in the “local loop,” located between the ILECs’ central offices and customers’ homes and businesses, including the “drop” line that attaches underground or overhead telephone facilities to individual customer premises.⁶ Based on the record, it appears that Verizon is the only large ILEC whose new broadband-based network – called FiOS – consists entirely of fiber. Thus, Verizon is the ILEC most likely to remove copper plant from its central office all the way to the home (FTTH), although its removal of copper loops to date and plans for future removal are somewhat limited, as we discuss below.

Verizon's actions to date consist of removal of approximately 40,000 copper drops, the short span between customers' premises and Verizon's poles

⁵ The Administrative Law Judge (ALJ) issued a ruling on September 14, 2007 asking the ILECs to disclose the extent of their removal of copper facilities, how they defined retirement, the impact of such retirement, and related information. The ILECs' responses are the data request responses referred to in text above.

⁶ Rulemaking Regarding Whether to Adopt, Amend, or Repeal Regulations Governing the Retirement by Incumbent Local Exchange Carriers of Copper Loops and Related Facilities Used to Provide Telecommunications Carriers of Copper Loops and Related Facilities Used to Provide Telecommunications Services, Rulemaking (R.) 08-01-005, Order Granting Petition for Rulemaking and Instituting Rulemaking as to Whether to Adopt, Amend or Repeal Regulations Governing the Retirement by Incumbent Local Exchange Carriers of Copper Loops and Related Facilities Used to Provide Telecommunications Carriers of Copper Loops and Related Facilities Used to Provide Telecommunications Services (OIR), Appendix A, at 2 (R.08-01-005).

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or underground facilities.⁷ Because Verizon will replace these facilities upon customer request, Verizon contends that removal of copper drops does not constitute *permanent* removal of copper loops. We agree that as long as Verizon continues to replace drops upon request, such action does not constitute permanent removal of the copper loop.

In contrast, AT&T's network, U-Verse, is a hybrid network of fiber and copper that will require AT&T to leave the copper portion of the network in its system. AT&T's current network plan does not involve either an FTTH or FTTC approach; instead, it is placing fiber in the system between the central office and the remote terminal, but the copper loop from the remote terminal to the home remains in place. Thus, AT&T asserts, it has no plans to remove the copper network in the foreseeable future.⁸

While SureWest is in the process of rebuilding its network to install fiber all the way to the home, it has no CLEC in its service territory that obtains unbundled network element (UNE) loops from SureWest using copper plant. Thus, SureWest claims, removing its copper network will not deprive any CLEC of its right to lease UNEs on the SureWest network.

⁷ P.07-07-009, Additional Comments and Information Request Responses of Verizon California, Inc, October 16, 2007, Attachment A, at A-2, Response to Question 3 and Question 4 (Verizon Additional Comments and Information); see also Initial Comments of The Utility Reform Network to Order Granting Petition for Rulemaking, R.08-01-005, filed March 14, 2008 (TURN Opening Comments) at 17; Reply Comments of Verizon California Inc. and Verizon West Coast Inc. on Order Instituting Rulemaking, R.08-01-005, filed May 28, 2008 (Verizon Reply Comments) at 19.

⁸ Comments of AT&T on Order Granting Petition for Rulemaking, R.08-01-005, filed March 14, 2008 (*AT&T Opening Comments*) at 27.

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Finally, the Small LECs are not building fiber optic networks to replace copper facilities, and have no CLECs leasing their lines, so they too claim the facts do not support action in this proceeding.

We also asked CALTEL to identify any harm it had suffered as a result of the *status quo*.⁹ Neither CALTEL nor the other parties favoring CALTEL's proposed rules were able to identify any harm, or pattern of harm relevant to copper retirement, that convinces us to adopt prescriptive rules at this time. CALTEL could point to no customer of its members that had lost service, no customers who had complained, and no member companies that had lost their ability to serve customers as a result of ILEC removal of copper facilities to date. This Commission believes that extensive rules on this issue could discourage the significant investment of carriers in advanced fiber communications systems in our State, contrary to Pub. Util. Code § 709.¹⁰

3. The Commission has Jurisdiction to Act

We find that we have jurisdiction to address the issues raised by the CALTEL petition and to establish the process we adopt here. As an initial matter, we note that in its *Triennial Review Order* (TRO),¹¹ the FCC declined to

⁹ Order Instituting Rulemaking, § 4.3 (Issues to be Considered) & Appendix A; P.07-07-009, *Administrative Law Judge's Requesting Additional Information and Noticing Prehearing Conference*, filed Sept. 14, 2007.

¹⁰ Pub. Util. Code § 709 sets forth the Legislature's policies for telecommunications in California as, among other things, to encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

¹¹ Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the

Footnote continued on next page

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adopt any rules to prohibit the ILECs from retiring copper loops or subloops that they have replaced with FTTH loops.¹² The FCC explicitly left open for state commissions "to evaluate whether retirement of copper loops complies with state legal or regulatory requirements":

...[W]e stress that we are not preempting the ability of any state commission to evaluate an incumbent LEC's retirement of its copper loops to ensure such retirement complies with any applicable state legal or regulatory requirements. We also stress that we are not establishing independent authority based on federal law for states to review incumbent LEC copper loop retirement policies. We understand that many states have their own requirements related to discontinuance of service, and our rules do not override these requirements.¹³

We find that in this passage the FCC recognized this Commission's express authority to consider whether state law, rules or procedures exist or should exist to govern ILEC retirement of copper facilities. Even if, as the ILECs contend, the state law had to pre-date the 2003 TRO decision by virtue of the FCC's use of the present tense in stating that "many states *have* their own requirements,"¹⁴ at least two California statutes qualify.

Pub. Util. Code § 709, effective January 1, 2003, requires the Commission to facilitate the availability of broadband networks in California, as follows:

Telecommunications Act of 1996; Development of Wireline Services Offering Advanced Telecommunications Capability, 18 FCC Rcd 16978 (2003) (TRO).

¹² *Id.* at ¶ 281.

¹³ *Id.* ¶ 284.

¹⁴ We do not necessarily agree with the ILECs' interpretation of the FCC language as applying only to pre-existing state law, but assume that interpretation for purposes of argument.

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- 1) "continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians" (§ 709(a));
- 2) "encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services" (§ 709(c)); and
- 3) make efforts to "assist in bridging the 'digital divide' by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income and disabled Californians" (§ 709(d)).

The record of this proceeding demonstrates that the copper network is increasingly useful to facilitate advanced services in this state. As Integra points out in material submitted with its comments,¹⁵ digital subscriber line (DSL) is but one use of copper plant to facilitate broadband. While ADSL started out with up to 1.5 megabits per second (Mbps) of capacity, ADSL2 can provide 25 Mbps/pair. VDSL2 can provide up to 100 Mbps/pair on short loops of less than 1,000 feet, enough bandwidth to support services such as high definition television and video-on-demand. Ethernet over copper is a relatively recent robust application (with speeds up to 20 Mbps) for California business, especially small business. Thus, use of copper wiring for broadband purposes is one way of meeting our obligations to advance broadband deployment under § 709. Thus, § 709 is a statute under which we have authority to act.

¹⁵ Comments of Integra Telecom of California, Inc. on Order Instituting Rulemaking, R.08-01-005, dated March 14, 2008, Exhibit 1, at 8-9.

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Pub. Util. Code § 851, enacted in 1951, requires utilities to apply for Commission approval to sell, lease, assign, mortgage, or otherwise dispose of or encumber facilities that are necessary or useful in the performance of their duties to the public. CALTEL argues that the retirement of copper loops is removal of plant that is necessary or useful and that the ILECs must obtain Commission approval regarding such retirement.¹⁶ AT&T argues on the other hand that Section 851 “by its own terms, does not apply to property that is no longer necessary or useful to the ILEC in the performance of the ILEC’s duties to the public.”¹⁷

Verizon argues that Pub. Util. Code § 851 does not apply to the “retirement” of copper loops, as it only applies to “transactions” such as the sale, lease, encumbrance or “disposition” of public utility property that is necessary or useful to its public service obligations.¹⁸ We disagree, and find that the term “otherwise dispose of” is broad enough to encompass copper loop retirements, as CALTEL asserts.¹⁹ See *Crum v. Mt. Shasta Power Corp.*, 220 Cal. 295, 308 (1934) (holding that a hydroelectric power company could not release excess water

¹⁶ *Comments of CALTEL on Order Instituting Rulemaking, R.08-01-005*, dated March 14, 2008 (*CALTEL Opening Comments*), at 14-15. CALTEL’s argument is that Section 851 applies to the retirement of copper facilities because the facilities are an integrated part of the network that is used by the ILECs and CLECs. CALTEL also asserts that the ILECs have a duty to serve the CLECs; and that copper facilities are used to provide wholesale services.

¹⁷ *Comments of AT&T on Order Granting Petition for Rulemaking, R.08-01-005*, filed March 14, 2008 (*AT&T Opening Comments*) at 8.

¹⁸ *Verizon Reply Comments*, at 29-30. Verizon further asserts that absent a “transaction,” Section 851 does not apply on its face to copper loop retirement.

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from a river to maintain the level of a pool without the prior approval of the Railroad Commission [this Commission's precursor] because the river water had been dedicated to a public purpose). The common dictionary definition of "dispose" includes "to get rid of, or to deal with conclusively," and therefore includes retirement.²⁰

However, for the following reasons, we believe that we should not require Section 851 approval for the retirement of individual copper loops. The Commission has previously stated that “[o]ne of the fundamental purposes of Section 851 approval of the sale or transfer of utility assets is to permit the Commission to make a determination that the assets transfer will not impair the ability of the utility to provide adequate service to its customers following the transaction.”²¹ Section 851 applies to plant that is “necessary or useful in the performance of the utility’s duties to the public.” Pub. Util. Code § 851. The FCC permitted ILECs to retire copper loops if they are replacing the loop with FTTH or FTTC loops; therefore, the FCC effectively relieved ILECs of the *duty* to provide the copper loop if the ILEC is actually retiring the copper facility.

We take a similar approach to the FCC’s policy of permitting ILECs to retire copper loops under specific circumstances. We note that there is not evidence of actual harm that has occurred in this State with ILEC copper

¹⁹ CALTEL *Opening Comments*, filed Sept. 2, 2008, at 5.

²⁰ *Id.* at 3, citing Merriam Webster Online Dictionary, <http://www.merriam-webster.com/dictionary/dispose>.

²¹ See D.07-03-008; D.05-09-008 (noting that “Our primary objective in reviewing the sale of utility property is to ensure that disposition or encumbrance of public utility property does not impair a utility's public service to customers”).

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retirement. Further, two statutes establish our policy to encourage the deployment of broadband networks. Our State policy under Section 709 is to promote advanced services networks and to encourage the deployment of new technologies. Moreover the Digital Infrastructure and Video Competition Act (DIVCA), at Pub. Util. Code § 5800 *et seq.*, establishes our State policy to “[p]romote the widespread access to the most technologically advanced cable and video services to all California communities in a nondiscriminatory manner.” Pursuant to DIVCA, the ILECs are deploying their fiber-based networks in part to support broadband and video services. We have a legislative mandate to ensure that our policies do not deter network investment, and, instead, promote such investment. The ILECs have asserted that maintaining copper networks along with new fiber networks would prevent them from fully deploying their fiber networks.²² A requirement that the ILECs seek approval for retirement of their individual copper loops may thus deter or prevent the ILECs from proceeding with their network plans. For these reasons, we decline to interfere with the network investment plans of ILECs, by requiring Section 851 approvals for copper retirement.

Therefore, consistent with the FCC’s policy in the *TRO*, and pursuant to our authority under Section 853(b), we find that it is not necessary in the public interest for ILECs to obtain Section 851 approval for the retirement of copper loops. We thus exempt ILECs from seeking Commission approval pursuant to Section 851 of the retirement of copper loops, on the condition that the ILEC complies with obligations under FCC rules and with the notice and good faith

²² See, e.g., AT&T Opening Comments at 25-26, Verizon Opening Comments at 33-34.

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negotiation provisions that we establish herein. If there is evidence that the ILECs are engaging in anti-competitive behavior in this regard, we may revisit the issue. As for the impact of the ILEC's retirement of copper loop on its retail customers, when retiring a copper loop, we require the ILEC to offer to its retail end-user customer the comparable service over fiber that the customer was previously receiving.

As discussed above, the Commission has jurisdiction with regard to the issues raised by CALTEL's petition. However, we do not believe that there is adequate evidence in the record that the ILECs are unilaterally disrupting competitors' service over copper lines, or that consumers are being harmed. The Commission has a strong interest in advancing policies that promote the widespread availability of broadband networks (including fiber deployment) to ensure global competitiveness and economic development in our State. Thus, we decline to adopt a policy that is inconsistent with the FCC *TRO*.

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4. CALTEL has not Provided Evidence to Justify its Proposed Rules

As discussed above, the FCC rejected proposals for “extensive rules that would require affirmative regulatory approval prior to the retirement of any copper loop facilities,” and noted that such a requirement is not necessary because its existing rules “serve as adequate safeguards.”²³ We agree with this approach. The FCC determined not to prevent copper retirement based on its policy to promote advanced services and the networks supporting such services. We believe that imposing a substantial and onerous process for approving copper retirements would delay fiber system deployment without providing major benefits to competition or consumers. The decision we make today represents a careful balance between policies of this Commission: encouraging the rapid deployment of high speed telecommunications services to all Californians consistent with Section 709 for economic development purposes against ensuring fair competition and uninterrupted service for CLEC retail consumers.

Neither CALTEL nor any other commenter in this proceeding has provided evidence of harm justifying rules such as those CALTEL proposes.²⁴ While TURN supports CALTEL's request that we adopt rules, it acknowledges a "lack of data" showing that problems currently exist.²⁵ We find that hypothetical

²³ TRO at ¶ 281.

²⁴ Indeed, by asking us to preserve the *status quo* pending the outcome of this rulemaking, CALTEL essentially concedes that the current situation poses no harm.

²⁵ TURN Reply Comments at 11 (“TURN submits that the lack of data is one reason that establishing copper retirement rules is important.”).

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problems do not provide a basis for new regulations in this highly competitive area of telecommunications service. The California legislature in 2006 enacted DIVCA²⁶ to encourage ILECs to build fiber systems that would support video services in California. This Commission believes that requiring an ILEC to maintain its copper network for its competitors would be inconsistent with the intent of DIVCA. Copper retirement rules could provide a disincentive for carriers to bring advanced communications systems to our state, as opposed to other states with a more favorable regulatory climate. This outcome would conflict with the desire of our state legislature and this Commission to ensure that California's communications systems be as advanced as possible.

CALTEL's rules would require that an entity seeking to retire copper facilities file an application with the Commission and make a showing that the copper removal would serve the public interest, convenience and necessity, among other requirements.²⁷ The rules would prohibit ILECs who could not meet this test from retiring the facilities, perhaps indefinitely. These proposed rules also would delay retirement of copper facilities by a number of months should a CLEC protest the regulatory application.

Such rules would be contrary not only to the FCC's intent in the *TRO*, but to our own state's policy as expressed in Section 709 to advance the installation of high speed networks. As noted previously, no ILEC participating in this proceeding is currently retiring copper loops. Verizon's removal of copper drops does not constitute retirement so long as it replaces the drops upon request.

²⁶ Pub. Util. Code § 5800 *et seq.*

²⁷ *Id.* at 2.

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Despite the absence of current harm, CALTEL asks us to act proactively to preserve the copper network. DRA, FEA/DOD and TURN concur. The ILECs, in contrast, assert that the proposed rules are unnecessary in light of the FCC's existing rules and CALTEL's failure to demonstrate harm.

As we discuss below, implementing rules governing the retirement of copper loops could require an extensive and complex examination of who will bear the cost of maintaining a network an ILEC no longer needs. CALTEL and the ILECs have vastly different opinions about how to calculate such costs and who should bear them. Moreover, CALTEL itself has noted that its members are not interested in acquiring the copper network from the ILECs. The FCC has effectively declined to require ILECs to provide the copper loop as a UNE if ILECs are replacing the copper loop with FTTH or FTTC facilities. In the absence of a clear FCC requirement that the copper loop remain as a UNE under such circumstances, we are reluctant to adopt an extensive approval process for the ILEC to retire its copper facilities when it deploys FTTC or FTTH facilities.

Further, the record shows that copper is currently not being removed on a large scale and that the ILECs' deployment of all-fiber networks is limited to date.²⁸ While Verizon and AT&T have both announced plans to increase the pace of their fiber network build outs, all-fiber networks are still the exception

²⁸ See AT&T Opening Comments at 27; Response of The Division of Ratepayer Advocates on Order Instituting Rulemaking, R.08-01-005, filed May 28, 2008 (DRA Reply Comments) at 2-3; Response of Dr. William E. Taylor prepared for AT&T California on Order Instituting Rulemaking, R.08-01-005, filed May 28, 2008 (AT&T's Expert Reply Comments) at 9. See also Comments of Small LECs on Order Instituting Rulemaking, R.08-01-005, filed March 14, 2008 (Small LECs' Opening Comments) at 7.

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rather than the rule in California.²⁹ Verizon's fiber-only FiOS network is far from ubiquitous and AT&T's fiber network is still copper dependent.³⁰

CALTEL's proposed rules would place a heavy burden of proof on ILECs to prove that removal of copper facilities is in the public interest. We note that the FCC adopted these copper loop retirement policies in the *TRO* after weighing the costs and benefits of unbundling and intermodal competition that the ILECs face from non-ILECs in the voice area, and in considering how to advance its goal of "swift and ubiquitous broadband deployment."³¹ We support these policies and believe that existing FCC notice requirements provide an adequate mechanism for CLECs to transition during an ILEC's copper retirement.

The FCC specifically established notice requirements (as discussed below) that would "ensure that incumbent and competitive carriers can work together to ensure the competitive LECs maintain access to loop facilities." The FCC thus anticipated that the carriers would work to maintain loop facilities access. We

²⁹ CALTEL Opening Comments at 19, Response of AT&T California to Order Instituting Rulemaking, R.08-01-005, filed May 28, 2008 (AT&T Reply Comments) at 32, DRA Reply comments at 2-3. See also Response of Small LECs to Order Instituting Rulemaking, R.08-01-005, filed May 28, 2008 (Small LECs' Reply Comments) at 3; AT&T's Expert Reply Comments at 12.

³⁰ See CALTEL Reply Comments at 16-17. While CALTEL introduced evidence in comments on the proposed decision in this proceeding that AT&T is now installing fiber-only networks in two small California cities ("AT&T issued two Accessible Letters, and published two short term network changes notices on its public Internet site, in July describing plans to replace copper feeder cable with fiber-fed DLC (digital loop carrier) systems in the Downieville and Watsonville areas later this year"), these replacements of copper are not part of a FTTH or FTTC deployment and therefore, outside the scope of the FCC's *TRO* rules governing copper loop retirement. See *CALTEL Opening Comments on Commissioner Chong's Proposed Decision*, filed August 25, 2008, at 11.

³¹ *TRO* at ¶ 234.

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expect that the ILECs will work in good faith to provide such access to their wholesale CLEC customers.

The FCC also stressed that it was not eliminating the rights of competitive carriers “to obtain unbundled access to hybrid loops capable of providing DS1 and DS3 service to customers.”³² Balancing our policy goals to promote advanced broadband services in the state with the interests of competitors to have access to network facilities, we strongly encourage the affected ILECs to coordinate and work with the CLECs to ensure that CLEC service is not disrupted if an ILEC seeks to retire a copper loop. We will look closely to ensure anticompetitive actions do not adversely affect CLEC services to end users.³³ Therefore, we will not take the action CALTEL urges, given the complexities involved in determining the future costs of maintaining access to copper facilities; the lack of proof of harm; lack of actual removal of copper facilities or plans to do so; and the limited deployment of fiber networks to date.

We will instead as outlined below adopt a state process for ILECs to file notices with the Commission and serve notices on CLECs; and to foster commercial negotiations between the parties. We will also monitor advances in technology that may eliminate CLEC reliance on copper local loops.

5. The FCC Has Rules in Place

The FCC has rules in place that require ILECs to provide notice of proposed action to remove copper loops. Those rules are found at 47

³² See *TRO* at ¶ 294.

³³ On the other hand, if a CLEC fails to submit a request for negotiations to the ILEC in a timely manner, this Commission will not provide a forum for any later dispute.

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C.F.R. 51.333 *et seq.* We do not express an opinion on whether those rules are adequate for all potential future copper retirement, but do summarize them here.

The FCC rules give competitors that lease lines from an ILEC proposing to remove copper facilities the right to file objections to gain time to smoothly transition service. Under these rules, ILECs planning to retire copper loops that have been replaced with a FTTH or FTTC loop must comply with the network disclosure requirements set forth in 47C.F.R. 51.325-51.335.³⁴ These rules provide that ILECs must provide public notice of planned changes at the “make/buy point.”³⁵ The make/buy point, in this instance, is the time at which an ILEC decides to replace copper loops within its network with fiber facilities.³⁶ The notice requirement depends on when the planned change can be implemented after the make/buy point. The ILEC must give notice within 12 months of the make/buy point except:

- (1) If the changes can be implemented within 12 months of the make/buy point, public notice must be given at the make/buy point but at least six months before implementation.
- (2) If the changes can be implemented within six months of the make/buy point, public notice may be given pursuant to the short-term notice procedures provided in 51.333.³⁷

The short term notice requirements under 47C.F.R. 51.333 require public notice if the ILEC wishes to implement the planned network changes less than

³⁴ 47 C.F.R. § 51.325(a)(4).

³⁵ 47 C.F.R. § 51.331(b).

³⁶ *Id.*

³⁷ 47 C.F. R. § 51.331(a).

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six months after public notice.³⁸ In this case, the ILEC must serve a copy of its public notice upon each telephone exchange service provider that directly interconnects with the ILEC's network at least five business days in advance of its filing with the FCC.³⁹ Under the FCC's rules for notice of replacement of copper loops or copper subloops with FTTH or FTTC loops, the FCC requires that notices shall be given within a minimum of 90 days of such change.⁴⁰ Notices of replacement of copper loops or subloops with FTTH or FTTC loops shall be deemed approved on the 90th day after release of the FCC's public notice of the filing, unless an objection is filed.⁴¹

An information service provider or telecommunications service provider that directly interconnects with the ILEC's network may file objections to an ILEC's notice.⁴² These objections must be filed with the FCC and served on the ILEC no later than the ninth business day following the release of the FCC's public notice.⁴³ The objecting party must clearly set forth reasons why it cannot accommodate the ILEC's changes by the date stated in the public notice and must indicate any specific technical information required that would enable the objector to accommodate those changes.⁴⁴ Further, the objector must list steps

³⁸ 47 C.F. R. § 51.333(a).

³⁹ *Id.*

⁴⁰ 47 C.F.R. § 51.333(b)(2).

⁴¹ *Id.*

⁴² 47 C.F.R. § 51.333(c).

⁴³ *Id.*

⁴⁴ *Id.* at (c)(1).

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that it is taking to accommodate the planned retirement and state the earliest possible date (not to exceed six months from the original date given in the public notice) by which the objector anticipates it can accommodate the proposed retirement.⁴⁵ It must also provide an affidavit stating that the objection is reasonable and not being submitted for purposes of delay.⁴⁶

The ILEC shall have until no later than the 14th business day following the release of the public notice to file a response to the objection with the FCC and serve the response on all parties that filed objections.⁴⁷ If an objection is filed, the FCC will issue an order determining a reasonable public notice period.⁴⁸

Under the FCC's rules, ILECs must provide a minimum of 90 days of notice to CLECs that will be directly affected by planned copper retirement.⁴⁹ Further, ILECs must notify affected CLECs directly if they plan to implement the retirement in fewer than six months. Thus, while the FCC rules do not allow a CLEC to prevent a proposed retirement, the rules do give affected CLECs notice and information regarding the planned retirements. Moreover, as discussed above, the FCC noted that it expected the carriers to work together to maintain access to the facilities.

⁴⁵ *Id.* at (c)(2) and (3).

⁴⁶ *Id.* at (c)(5).

⁴⁷ *Id.* at (d).

⁴⁸ *Id.* at (e).

⁴⁹ *Id.* at (f).

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The FCC's website also lists the number of copper retirement notices that have been filed with the FCC.⁵⁰ Since January 1, 2006, there have been over 250 notifications of proposed copper retirements by ILECs throughout the country, although the number in California is small. Despite these numerous notifications, filed pursuant to the FCC's rules, commenters in this proceeding failed to submit any evidence that CLECs or consumers have been harmed in any way as a result of these copper retirements. The Commission believes that there would be at least some evidence of harm if copper retirement posed the significant threat to competition, customers, and safety that CLECs claim, and if the FCC's rules were inadequate to protect against this threat.

6. Process for ILECs and CLECs to Negotiate Access to Loop Facilities

For the reasons discussed above – the lack of actual harm to competitors or customers, the limited build-out of fiber facilities, the limited removal or plans for removal of copper facilities, and our pro-investment policies – we decline to adopt the proposed CALTEL rules. Instead, we have balanced the competing interests of the CLECs and the ILECs and the previously discussed policy goals of our State and the FCC in the *TRO*, in establishing the following process below.

Specifically, we will require an ILEC that plans to retire a copper loop and replace it with FTTH or FTTC loops, to file concurrently with our Commission's Communications Division a copy of the notice of network change that it files

⁵⁰ The FCC website may be found at http://www.fcc.gov/wcb/cpd/other_adjud/network.html.

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with the FCC pursuant to 47 C.F.R. 51.333.⁵¹ By FTTH loop, we refer to the FCC's definition, which is a "local loop consisting entirely of fiber optic cable (and the attached electronics), whether lit or dark fiber, that connects a customer's premises with a wire center."⁵² Further, we will use the FCC's definition of FTTC, which is a "fiber transmission facility connecting to copper distribution plant that is not more than 500 feet from the customer's premises."⁵³ The ILEC shall also concurrently serve the notice on all CLECs that are interconnected with the ILEC, regardless of whether a CLEC is currently serving a customer on that

⁵¹ By "copper loop," we mean the transmission facility from an incumbent LEC central office that connects to the loop demarcation point at an end-user customer premises. *TRO* at n.638.

⁵² *TRO* at n.802. The FCC notes that other fiber in the loop architectures exist, including "fiber to the curb." Verizon has explained that it is not retiring copper loops and placing FTTH or FTTC loops in an area until it is economically advantageous to do so. Verizon builds its fiber network to a distribution hub that serves approximately 200 to 400 customers. At that distribution hub, if an individual customer requests fiber-based service, Verizon will install fiber to the customer's premise, but does not retire the copper drop at that time. Verizon notes that, when there are enough customers in a distribution hub that have migrated to the fiber-based service, it may then migrate its remaining customers to the fiber-network and retire all its copper loops at that distribution hub at that time. Verizon OIR Comments, Appendix B, at paras. 30-35. In contrast, AT&T acknowledges that its fiber network plans currently use copper plant from the remote terminals at the feeder-distribution interface of the access network to the customer premises. *AT&T Reply Comments*, Appendix A, at 12-13. AT&T asserts that it may, however, alter its network plans in the future such that it would deploy fiber closer to the end-user premises.

⁵³ In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 01-338, 96-98, 98-147, Triennial Review Order on Reconsideration, FCC 04-248 at ¶10 (Oct. 2004).

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loop or not.⁵⁴ If a CLEC files an objection to the copper retirement with the FCC pursuant to 47 C.F.R. 51.333(c), the CLEC shall file a copy of such objection with the Communications Division at the same time.

Any CLEC that seeks to use the relevant copper loop facility shall provide to the incumbent carrier within 20 days of the notice's filing with the FCC, a request for negotiations with the ILEC either to purchase the copper loop facility or to reach a fair and equitable agreement with the ILEC on price, terms and conditions to access loop facilities. The CLEC shall include in its request for negotiations the following information:

- a. whether the CLEC seeks to purchase the copper loop facility, or whether the CLEC seeks only to maintain access to a loop facility;
- b. the number of current or planned customers on the copper UNE;
- c. the services that the CLEC provides over the loop facility or plants to provide over the facility; and
- d. the number of UNEs that the CLEC currently purchases.

We will require the ILEC to enter into good faith negotiations with the CLEC for a period of 60 days either to sell the copper loop facility at issue; or to reach a fair and equitable agreement with the CLEC on price, terms and conditions to ensure continued CLEC access to loop facilities for a commercially reasonable time period. A fair and equitable agreement for access to the copper loop should include all fair and reasonable costs to the ILEC for preserving and

⁵⁴ This means that the ILEC should at a minimum serve the Communications Division staff and all CLECs interconnected with the ILEC with the copies of the copper retirement notices at the same time as it files the notices with the FCC.

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maintaining access to the copper loop facility for the requesting party, vis-à-vis the retirement of the copper loop facility. For example, the price of access to the copper loops where the ILEC has retired its copper plant should include the total costs of operating and maintaining or preserving the copper cable, and all associated facilities used to provide the leased loops. If a requesting party seeks to purchase the copper facility from the ILEC, the price shall be the fair market value of the copper facility to the ILEC, and all maintenance and operating costs of the copper facility shall be the responsibility of the purchasing party from the date of purchase.

We reiterate that it is this Commission's policy under Pub. Util. Code § 709 to promote the development and deployment of new technologies and the ubiquitous availability of a wide choice of state-of-the-art services. We are reluctant to contravene the national policies set forth in the FCC's *TRO*, especially as its policy to encourage the deployment of fiber and broadband services is consistent with our own state's policies to encourage broadband deployment. The California Legislature has expressed its goal to "[c]omplement efforts to increase investment in broadband infrastructure and close the digital divide."⁵⁵ Given these express state and federal goals, we are exempting the ILECs from Section 851 requirements regarding copper loop retirement, and from additional detailed rules requiring affirmative approval before an ILEC may replace copper facilities with FTTC or FTTH facilities. The process we establish above promotes state and federal goals for broadband deployment, ensures competitive neutrality, is consistent with the FCC's *TRO*, and provides

⁵⁵ Pub. Util. Code § 5810(a)(1)(E).

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opportunities for the competitive carriers to negotiate access to loop facilities while not unduly delaying the ILECs' ability to retire copper facilities.

7. Emergency Preparedness Addressed in a Separate Proceeding

Several parties, including CALTEL, ask us to preserve the existing copper network because it is more reliable in a disaster. We are examining the issue of availability of backup power for telephone service over fiber, in R.07-04-015, our *Rulemaking on the Commission's Own Motion into Reliability Standards for Telecommunications Emergency Backup Power Systems and Emergency Notification Systems Pursuant to Assembly Bill 2393 (Backup Power Rulemaking)*. That proceeding is the appropriate forum to consider issues of reliability and emergency preparedness on fiber networks.

Moreover, to the extent that an ILEC has transferred a customer to its fiber-based service, the underlying copper loop cannot be easily used in the event of an emergency. Once Verizon switches a group of customers on a particular copper facility to FiOS, for example, it removes or disables the copper drop to make room for the fiber facility, subject to replacement on customer request. In the event of an emergency, therefore, the customer may not easily switch back to copper-based service for emergency purposes without a visit from a Verizon service technician. Further, electric outages often result from cable cuts that also affect telecommunications wiring, so power outages also sever the copper connection to the home.⁵⁶ In view of these facts, it is far from clear that redundancy in copper-fiber networks is the best way to ensure emergency

⁵⁶ *Verizon Opening Comments* at 38, and Declaration (App. B), ¶ 29; *AT&T Opening Comments* at 32.

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preparedness. Access to wireless phones and computer phones via Wi-Fi already provides significant redundancy.⁵⁷

Thus, we do not find that the emergency preparedness issues, standing alone, merit rules prohibiting copper removal absent evidence that ILECs are currently engaged in such removal on a large scale.

8. Cost Issues are Complex

In seeking parties' input on CALTEL's proposed rules, we learned that the ILECs and CALTEL have disparate views on who should pay to maintain the network, the costs involved and how to calculate them, and whether we should have CLECs purchase portions of the network the ILECs no longer need. We are well aware of the time consuming and complex disputes that arose over cost and pricing of UNEs, both at this Commission and around the country.⁵⁸

Evidence the parties submitted in this record indicates that any effort to determine the cost to an ILEC of preserving aspects of the copper network that it no longer needs could be equally difficult. CALTEL asserts that UNE pricing or special access rates for loops approximates the ILEC costs of maintaining a

⁵⁷ Since 2001, California's largest ILECs have lost 25% of their embedded wireline customer base to broadband DSL and cable, as well as substitution of VoIP and wireless for wireline voice services. Wireless subscribership was 30.2 million in June 2007, or 82.7 percent of the state's population. Further, it is estimated that there are currently between 900,000 and 1.2 million VoIP subscribers in CA. *See Residential Telephone Subscribership and Universal Telephone Service Report to the Legislature, California Public Utilities Commission* (June 2008), at 8-15.

⁵⁸ *See The Echoes of Forgotten Footfalls: Telecommunications Mergers at the Dawn of the Digital Millennium*, 43 Hous. L. Rev. 1311, 1330 (2007) ("For its part, TELRIC [the price CLECs ultimately were required to pay ILECs for UNEs] has a storied history.").

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retired copper loop.⁵⁹ While Total Element Long Run Incremental Cost – the UNE standard – might be the appropriate cost basis according to the CLECs, the ILECs certainly would dispute this methodology and assert that many other costs should be included in any price to competitors of maintaining a network the ILECs no longer use. The ILECs, for example, argue that the existing UNE prices for copper loops are based on the total element long run incremental cost (TELRIC) model, which represents the costs of building the most efficient forward-looking network and not the cost of replacing copper networks with more copper plant.⁶⁰ Further, neither CALTEL nor the ILECs expressed interest in having the Commission broker a purchase by competitors of copper facilities that the ILECs no longer need.

Thus, any proceeding on this topic could require extensive litigation on how to compute costs. We are reluctant to expend the substantial resources and time that would be required to take on this task without a clear showing of need. Instead, we believe that the process we set forth here will encourage the parties to negotiate privately to reach an agreement on access to the copper loop, or alternative facilities.

9. Comments on Proposed Decision

⁵⁹ CALTEL Opening Comments at 10, 28.

⁶⁰ *Verizon Opening Comments*, Appendix A at ¶¶ 97-98 (noting that any pricing methodology that would apply to preservation of copper plant would need to account for the long run costs of replacing copper plant with new copper). Additionally, the ILECs note that once they begin to migrate more existing customers off copper plant, the “fill factor” for ILEC plant will be substantially lower with retired copper plant than for plant providing service to both ILEC and CLEC customers; therefore, the cost of providing UNEs on retired copper plant must reflect actual CLEC-only usage. *See Id.* at Appendix A at ¶ 100.

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CALTEL, AT&T, Verizon, SureWest, the Small LECs, DRA, TURN and Integra filed comments and reply comments. Their points, and our responses, appear below.

First, several parties claim⁶¹ that "ripeness" is technically a concept only applicable to adjudicatory cases.⁶² While the Commission has applied the ripeness principle in other contexts than adjudications – *see* D.01-07-009, declining to adopt rules in a rulemaking⁶³ – we modify the proposed decision to state that we have made a policy decision not to act at this time in the absence of evidence of actual or threatened harm and consistent with our state policies and the FCC's goals of encouraging broadband deployment. Such a decision is within our discretion. While CALTEL would like us to act "proactively,"⁶⁴ we are not required to do so, especially if we are not faced with evidence of customer or competitor harm.

Second, several parties claim the evidence of harm is greater than the decision indicates, or introduce new evidence they claim should prompt us to act

⁶¹ Opening Comments of DRA on Commissioner Chong's Proposed Decision, filed August 25, 2008 (DRA PD Opening Comments) at 3-4; Opening Comments of CALTEL on Commissioner Chong's Proposed Decision, filed August 25, 2008 (CALTEL PD Opening Comments) at 4; Opening Comments of Integra on Commissioner Chong's Proposed Decision, filed August 25, 2008 (Integra PD Opening Comments) at 2; Opening Comments of TURN on Commissioner Chong's Proposed Decision, filed August 25, 2008 (TURN PD Opening Comments) at 2.

⁶² An earlier version of the Proposed Decision stated that the issues were not yet "ripe."

⁶³ 2001 Cal. PUC LEXIS 548, at *12-13, cited in the original proposed decision, in which we declined to establish rules regarding eight digit dialing in telecommunications context on ripeness grounds.

⁶⁴ See CALTEL PD Opening Comments at 9.

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now. CALTEL notes that "in the past six weeks" AT&T has expressed plans to install a copper-only network in Downieville and Watsonville, California, rather than the hybrid copper-fiber network AT&T told the Commission about and on which the proposed decision relies. However, CALTEL notes that "it appears that no competitive carriers are directly impacted by these planned changes...."⁶⁵ Further, these changes were not copper replacements with FTTH or FTTC installation or part of a coordinated campaign to change copper to fiber, but came about in special circumstances where there is no evidence of harm to competitors or customers.⁶⁶

We are not persuaded by this new evidence that a problem exists requiring comprehensive new rules. We have, however, decided to require the ILECs to file concurrently with Commission's Communications Division and all CLECs that are interconnected with the ILECs, a copy of their FTTH or FTTC related copper retirement notices that are filed with the FCC. We are also establishing a process as discussed above, for the parties to negotiate with each other over the loop facilities.

In this regard, DRA erroneously asserts that we are "tacitly allowing the ILECs to retire copper loops without any state oversight."⁶⁷ As discussed above, the FCC established a clear policy in the *TRO* not to prevent the ILECs from

⁶⁵ *Id.* at 11. CALTEL also refers to a change AT&T is making in Georgia, which is irrelevant here. *Id.* at 12.

⁶⁶ See Reply Comments of AT&T California on Commissioner Chong's Proposed Decision Declining to Adopt etc., filed September 2, 2008 (AT&T PD Reply Comments) at 2-3.

⁶⁷ DRA PD Opening Comments at 10.

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retiring copper loop when they deploy FTTH or FTTC facilities. Further, the state has a clear policy encouraging ILECs to build fiber facilities as evidenced by DIVCA and Pub. Util. Code § 709. These fiber networks support both voice and advanced services, and represent one type of advanced communication system desired by the FCC and our State legislature. We are reluctant to impose rules on the retirement of copper loops in light of the FCC's and our state's clear policies and in the absence of evidence of any actual harm to competition or customers. Further, TURN claims the decision ignores its evidence that Verizon's practice regarding reinstallation of copper drops on customer request is "confusing, time-consuming and burdensome to customers and very likely discourages customers from having Verizon complete the process to reinstall copper drops that should not have been disconnected in the first place."⁶⁸

Contrary to TURN's claim, this Commission does not believe there is harm to the ILEC's retail consumers from the replacement of copper loop given the scant evidence in this proceeding to date. To the contrary, this Commission believes that these advanced communications systems will greatly benefit retail consumers by giving them more choices in their voice, video and Internet service providers. Should actual harm occur, any party may bring this information to this Commission's attention.

Third, the parties supporting rules continue to assert that the FCC rules are inadequate because they do not allow the FCC to prohibit copper removal,⁶⁹ but only contain procedural notice requirements. We note that the FCC in the *TRO*

⁶⁸ TURN PD Opening Comments at 4.

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rules effectively provided notice to competitive carriers that unbundled copper loops may not be available indefinitely. The FCC's rationale for this policy was in part to increase facilities-based investment. Similarly, in California, Pub. Util. Code § 709 encourages the deployment of new technologies and services to meet customer need and encourage the ubiquitous availability of state-of-the-art services. We are also charged with increasing competition for video and broadband services under Pub. Util. Code § 5800 *et seq.* Although we believe that we have jurisdiction to review issues where there may be substantial, actual harm to customers or competition, we decline to establish rules that may interfere with these pro-investment policies. At this time, in the absence of anti-competitive behavior by the ILECs, we are setting forth a limited notice and negotiation process.

Fourth, the ILECs dispute the conclusion that the Commission has jurisdiction to promulgate rules in this area.⁷⁰ This issue was fully briefed, and we are satisfied with our conclusion that the Commission has jurisdiction.

Fifth, Verizon asserts that the process the proposed decision sets forth for parties to return to the Commission with evidence of actual harm is overly vague. It asks us to consider reopening of this proceeding only if a party can make a showing of significant, actual harm to the public interest that applicable

⁶⁹ See, e.g., Integra PD Opening Comments at 4; DRA PD Opening Comments at 8; TURN PD Opening Comments at 6.

⁷⁰ AT&T PD Opening Comments at 1-2; Opening Comments of SureWest on Commissioner Chong's Proposed Decision, filed August 25, 2008 (SureWest PD Opening Comments) at 2; Opening Comments of Small LECs on Commissioner Chong's Proposed Decision, filed August 25, 2008 (Small LECs' PD Opening Comments) at 2.

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law does not already anticipate and address. We have established a process for the parties to negotiate access to loop facilities in the event of copper retirement plans.

Sixth, TURN and DRA raise issues regarding our emergency preparedness discussion. We clarify that section with citations to the record and other minor wording changes.

Finally, several parties dispute the proposed decision's conclusion that cost issues could be complex and time-consuming. CALTEL, for example, reiterates its position that the ILECs bear no cost from retaining copper.⁷¹ However, the ILECs strongly dispute this claim, and contend CLECs or others wishing to use copper facilities that would otherwise be retired should bear full responsibility for those facilities' maintenance.⁷² We decline to change our prior conclusion that the cost issues are complex and could require a great deal of time-consuming litigation. In light of limited agency resources, we decline to engage in these issues absent evidence of any actual harm at this time.

We retain our initial conclusion rejecting CALTEL's proposed rules at this time. We will, however, require the ILECs to file concurrently with Commission's Communications Division a copy of their FTTH or FTTC related copper retirement notices that are filed with the FCC. ILECs must also serve copies of those notices on all CLECs that are interconnected with the ILECs, regardless of whether a CLEC is currently serving a customer on the copper loop. We establish a process for the CLEC to request negotiations for either the

⁷¹ See also DRA PD Opening Comments at 11.

⁷² See, e.g., AT&T Opening Comments, filed March 14, 2008, at 27.

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purchase of the copper loop, or negotiation for continued access to loop facilities. As discussed above, we also require the ILEC to negotiate in good faith with the CLEC.

10. Comments on Revised Proposed Decision

CALTEL, AT&T, Verizon, SureWest, the Small LECs, DRA and TURN (jointly) and Integra filed comments in response to the revised proposed decision. Their points, and our responses, appear below.

First, many parties disagree with the revised proposed decision's conclusion that the Commission is not enacting "rules" or "regulations" with this proposed decision. CALTEL argues that not enacting rules will lead to ILEC claims that the Commission has simply encouraged compliance.⁷³ CALTEL claims that the unwillingness of the Commission to issue a binding determination on proposed retirements deprives the parties of any venue in which they may resolve a dispute over which the Commission has sole jurisdiction. Similarly, DRA and TURN object to the "process" that this proposed decision creates as it is "outside the Commission's formal proceedings and informal advice letter process."⁷⁴ We are satisfied with our conclusion that there has been insufficient evidence of harm presented in the record of this proceeding to require comprehensive new rules. The decision has been amended to make clear that we are establishing a notice and commercial

⁷³ Comments of CALTEL on Commissioner Chong's Revised Proposed Decision, filed October 14, 2008 (CALTEL RPD Comments), at 1.

⁷⁴ Comments of DRA/ TURN on Commissioner Chong's Proposed Decision, filed October 14, 2008 (DRA/ TURN RPD Comments), at 4.

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negotiation process for the ILECs to comply with when retiring copper loops where a CLEC has indicated interest in purchase or lease.

Second, no parties object to the requirement of filing concurrent copies of all notices of network changes filed with the FCC. This requirement, therefore, will be adopted in the final decision and ILECs wishing to retire copper facility will be required to provide the Commission's Communications Division with a concurrent copy of notices filed with the FCC pursuant to 47 C.F.R. § 51.325.

Third, ILECs object to the requirement for mandatory arbitration if negotiations with CLECs are not successful. These parties express concerns that such a requirement would divert financial resources away from advanced infrastructure build-out.⁷⁵ Further, ILECs note that parties are already free to engage in commercial negotiations today without the need for regulatory intervention⁷⁶ and that CLECs have successfully negotiated intermodal access options and self deployed or leased their own last-mile facilities without unnecessary regulatory interference.⁷⁷ ILECs maintain that *if* a mandatory arbitration procedure is adopted, it must be non-binding. They assert that the FCC rejected proposals that would have required affirmative regulatory approval prior to the retirement of such copper loop facilities, placing the

⁷⁵ Comments of Verizon on Commissioner Chong's Proposed Decision, filed October 14, 2008 (Verizon RPD Comments), at 2, Comments of AT&T California on Commissioner Chong's Revised Proposed Decision, filed October 14, 2008 (AT&T RPD Comments), at 2.

⁷⁶ *Verizon RPD Comments* at 3.

⁷⁷ *Verizon RPD Comments* at 7.

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decision to retire copper loops in connection with fiber in the sole control of the ILEC.⁷⁸

CLECs, however, assert that if arbitration is non-binding there will be no incentive on the part of the ILEC to reach a negotiated settlement. Further, CALTEL notes that if the default process favors one party, if there is no final resolution that party (the ILEC) will always prevail.⁷⁹ CALTEL proposes three alternatives to the revised proposed decision's non-binding arbitration model including one requiring Commission approval of the non-binding arbitration determination.⁸⁰

After consideration of these comments, we agree that the non-binding arbitration process would not add more to the commercial negotiation process that we set forth. We find that mandating non-binding arbitration would only consume additional resources of the parties and the Commission. Those resources may be put to better use with the parties engaging directly in negotiation. We continue to provide a process for CLECs to negotiate with the ILEC to purchase, or for access to, the copper facility, and require the ILEC to negotiate in good faith with the CLEC.

Fourth, Verizon emphasizes the complexity of the cost issue, noting that CALTEL has stated on the record that its members are not interested in purchasing retired copper facilities and would demand to continue paying the incremental costs of leasing individual loops, ignoring the substantial costs

⁷⁸ *AT&T RPD Comments* at 1, 3.

⁷⁹ *CALTEL RPD Comments* at 5.

⁸⁰ *Id.* at 5.

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required to maintain any given copper cable in working condition regardless of how many individual copper pairs are in use.⁸¹ We understand that the cost issues are complex, and have noted that the costs associated with access to a copper facility over retired copper plant may encompass a variety of costs. We maintain our decision to require good faith negotiations between parties to attempt to resolve these cost issues privately. To the extent that an ILEC is required to provide certain facilities under the FCC's rules or our rules, nothing in this decision relieves the ILEC of those duties.

Fifth, Integra again states that CALTEL's proposed rules should be adopted.⁸² We retain our initial conclusion rejecting these rules at this time.

Finally, DRA and TURN urge the Commission to require ILECs and CLECs to provide notice to all of their customers who may be affected by a copper retirement.⁸³ We find that the Commission already has sufficient rules in place to protect consumers with respect to ILEC and CLEC notification of changes to service. For example, if a CLEC will need to discontinue service to a customer where the copper loop is being retired, the carrier of last resort will be required to provide service to the customer, and the CLEC is required under our rules to provide notice of its discontinuance/transfer of service to the customer. Moreover, an ILEC will need to provide 30-day notice to customers when the ILEC is retiring a copper loop and transferring them to a fiber-service, if there is

⁸¹ *Verizon RPD Comments* at 4-5.

⁸² Comments of Integra on Commissioner Chong's Revised Proposed Decision, filed October 14, 2008 (Integra RPD Comments), at 2.

⁸³ *DRA/TURN RPD Comments* at 3.

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a change in the rates, terms, and conditions associated with the service. The ILEC must also offer its customer the comparable service over fiber.

Further, if an ILEC is advertising its new fiber-based service to customers, it should not represent that the customer *must* purchase the fiber-based service.

11. Assignment of Proceeding

Rachelle B. Chong is the assigned Commissioner and Sarah R. Thomas is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Verizon is installing an all fiber network.
2. AT&T's U-Verse broadband network is a hybrid of copper and fiber.
3. No CLEC in SureWest's service territory obtains UNE loops from SureWest using copper plant.
4. The Small LECs are not building fiber optic networks to replace copper facilities, and have no CLECs leasing their lines.
5. No ILEC is currently permanently retiring copper loops in California.
6. Verizon's removal of copper drops is not permanent removal of copper loop facilities so long as it replaces such drop(s) upon request.
7. AT&T's actions to replace copper with fiber in Downieville and Watsonville, California, were not part of AT&T's U-Verse network or replacements with FTTH or FTTC facilities.
8. AT&T's actions to replace copper with fiber in Georgia relate to a Fiber to the Home overbuild in Georgia that predates the AT&T/Bell South merger.
9. Verizon's FiOS network and AT&T's U-Verse network are far from ubiquitous.
10. No party has made a showing of harm justifying the rules CALTEL proposes.

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11. The Commission is addressing emergency preparedness issues related to fiber optic networks in a separate proceeding.

12. Customers who have switched to fiber-based service may not easily switch back to copper in an emergency.

13. Redundancy for emergency preparedness purposes exists, in part, via wireless services such as cellular service and Wi-Fi.

14. Cost issues regarding the copper network are complex and may take years to litigate.

15. The Commission is charged by our statutes to promote the deployment of broadband networks.

16. A requirement that the ILECs seek approval to retire their individual copper loops may deter or prevent the ILECs from fully deploying fiber-based networks.

17. A fair and equitable agreement for access to the copper loop should include all fair and reasonable costs to the ILEC for preserving and maintaining access to the copper loop facility for the requesting party, vis-à-vis the retirement of the copper loop facility.

18. For example, the price of access to the copper loops where the ILEC has retired its copper plant should include the total costs of operating and maintaining or preserving the copper cable, and all associated facilities used to provide the leased loops.

19. If a requesting party seeks to purchase the copper facility from the ILEC, the price shall be the fair market value of the copper facility to the ILEC, and all maintenance and operating costs of the copper facility shall be the responsibility of the purchasing party from the date of purchase.

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20. The FCC permits ILECs to retire copper loops when deploying FTTH or FTTC facilities.

21. The FCC has existing rules providing notice to and an opportunity to object from interconnected CLECs that may be adversely affected by ILEC copper facility removal.

Conclusions of Law

1. We have jurisdiction to impose rules regarding copper retirement.
2. It is this Commission's policy under Pub. Util. Code § 709 to promote the development and deployment of new technologies and the ubiquitous availability of a wide choice of state-of-the-art services.
3. The Commission is also charged with implementing Pub. Util. Code § 5800 *et seq.*, which sets forth the goal to promote widespread access to the most technologically advanced cable and video services to all California communities.
4. The FCC adopted unbundling policies in the TRO to encourage swift and ubiquitous broadband deployment.
5. The extensive copper retirement rules proposed by CALTEL are not necessary.
6. We will require the ILECs to file concurrently with Commission's Communications Division a copy of their FTTH or FTTC related copper retirement notices that are filed with the FCC. The ILECs shall also serve these notices on CLECs that are interconnected with them, regardless of whether the CLEC is currently serving customers on the copper loop or not.
7. The process that we adopt for the ILECs and CLECs to negotiate with each other is consistent with the FCC's and our state's broadband policies, and competitively neutral.

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8. The term “dispose of” in § 851 is broad enough to encompass copper loop retirements.

9. Consistent with the FCC’s policy and our state policy to encourage the deployment of broadband networks, we decline to require an approval process for the ILECs’ retirement of copper loops.

10. Pursuant to Section 853(b), we find that it is not necessary in the public interest for ILECs to obtain Section 851 approval prior to retirement of individual copper loops, provided that they comply with the notice and good faith negotiation process we set forth in this order.

11. If an ILEC is advertising its new fiber-based service to customers, it should not represent that the customer *must* purchase the fiber-based service.

O R D E R

IT IS ORDERED that:

1. We decline to adopt the rules proposed by the California Association of Competitive Telecommunications Companies (CALTEL) in this proceeding on the ground that such rules are not necessary.

2. Incumbent Local Exchange Carriers are exempted from the requirements of Pub. Util. Code Section 853(b) when they retire copper loops and deploy fiber-to-the-home or fiber-to-the-curb facilities, provided that they comply with Ordering Paragraphs 3-4.

3. If an Incumbent Local Exchange Carrier (ILEC) seeks to retire a copper loop facility with fiber-to-the-home or fiber-to-the-curb facilities, the following

4. Process shall apply within the 90 days that follows the ILEC’s decision to retire a copper loop:

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- a. The ILEC shall file concurrently with Communications Division a copy of its notice of network change that it files with the FCC pursuant to 47 C.F.R. 51.333 when that copper loop is being used by a CLEC. The ILEC shall serve at the same time the notice on all CLECs that are interconnected with the ILEC, regardless of whether a CLEC is currently serving a customer on that loop or not.
 - b. A CLEC that is interconnected with the ILEC shall file with Communications Division a copy of any objection that it files to a proposed copper retirement with the FCC under 47 C.F.R. 51.333(c).
 - c. Any CLEC that seeks to use that copper loop facility shall provide to the incumbent carrier within 20 days of the FCC notice a request for negotiations in writing either to purchase or lease the loop facilities and file a copy of its request with the Communications Division. The CLEC shall include in its request for negotiations the following information:
 - i) Whether the CLEC seeks to purchase the copper loop facility, or whether the CLEC seeks only to have the ILEC maintain access to a loop facility;
 - ii) the number of current or planned customers on the copper loop;
 - iii) the services that the CLEC provides over the loop facility or plans to provide over the loop;
 - iv) the number of UNEs that the CLEC currently purchases
 - d. Upon receipt of the CLEC's request for negotiations, the ILEC shall negotiate in good faith with the CLEC for a period of 60 days either to:
 - i) sell the copper loop facility to the CLEC; or
 - ii) reach a fair and equitable agreement with the CLEC on price and terms to ensure access to loop facilities.
5. When retiring copper loops, ILECs shall also offer to their retail end-user customers a comparable service over fiber that the customer was previously receiving.

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6. Rulemaking 08-01-005 is closed.

This order is effective today.

Dated November 6, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners

I reserve the right to file a dissent.

/s/ DIAN M. GRUENEICH

I will file a concurrence.

/s/ JOHN A. BOHN

I reserve the right to file a concurrence.

/s/ TIMOTHY ALAN SIMON

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Dissent of Commissioner Dian M. Grueneich

I do not support the decision approving a process for the retirement of copper loops (Decision) by incumbent local exchange carriers (ILECs). First, I am concerned that the process defined in the Decision does not provide enough protection to maintain a strong level of competition in California and may further limit the provider choices that residential and small business telecommunications customers have in the future. Eventually this lack of protection may lead to the elimination of many competitive local exchange carriers (CLECs). Secondly, I am strongly opposed to the exemption from Public Utilities Code § 851 requirements for ILECs seeking to retire or remove copper loops.

I am pleased that the Decision made the right call in finding that the California Public Utilities Commission (Commission) has the jurisdiction to address the issues raised in this proceeding and to establish a process for the ILECs to follow when retiring or removing copper loops. Especially relevant is the Decision's reference to the Federal Communications Commission's (FCC) explicit statement in the Triennial Review Order stressing that the FCC is "not preempting the ability of any state commission to evaluate an incumbent LEC's retirement of its copper loops to ensure such retirement complies with any applicable state legal or regulatory requirements."

While the Decision adopts a notification process mirroring the FCC's process and requires ILECs to enter into commercial negotiations with the CLECs, I remain skeptical regarding the light-handed regulatory approach embraced in the decision. By relying on "good faith negotiations" by the ILECs, the Decision establishes a one-sided approach to address this issue – favoring the

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ILECs and their plan to build out fiber networks, yet leaving little assurance for the continued use of copper loops by CLECs. The lack of assurances for the CLECs may lead to more competitors forced to close their businesses thus leaving California customers with fewer telecommunications carriers from which to choose.

I acknowledge the California Legislature's directive to the Commission that we bring affordable and widespread high quality telecommunications to California. However, we must not execute this directive at the expense of the competitors' demise. The Decision recognizes that copper facilities are another viable alternative in the competitive marketplace and are, therefore, another way to meet the obligations to advance broadband deployment. Thus, preservation of copper facilities is beneficial to the telecommunications industry, the Commission, and, because of the resulting competition, beneficial to California customers. The Decision claims to carefully balance the rapid deployment of high speed telecommunications services against ensuring fair competition. Yet, it ignores its own conclusion that copper facilities are another way to meet the Commission's obligations to advance broadband deployment. For, these reasons, I find the process set forth in the Decision unfairly balanced toward the needs of the ILECs in their endeavor to construct a ubiquitous fiber network.

My other concern with the Decision is the exemption of Public Utilities Code § 851 requirements for ILECs retiring copper loops. Although the exemption is predicated on the condition that the ILECs negotiate in good faith with the CLECs, this is a door that once opened may not be closed again. § 853 gives the commission the authority to exempt any public utility from the requirements of § 851 if such application is not in the public interest. The

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Decision argues that “it is not **necessarily** in the public interest for ILECs to obtain § 851 approval for the retirement of copper loops.” Based on that weak conclusion, the Decision “decline[s] to interfere with the network investment plans of ILECs, by requiring § 851 approvals for copper retirement.” Here again, the Decision tips the scales in the direction of promoting ILEC fiber investment at the expense of the competitors that use the copper network for the same advanced services. The exemption of § 851 requirements further facilitates the elimination of the competition.

The approach of the Decision – exempting § 851 approval and relying solely on good faith negotiations by the ILECs to ensure fair competition – adds up to an approach that tips too far to one side in addressing the retirement of copper loops. Because of this imbalance, I oppose the Decision.

Dated November 6, 2008, at San Francisco, California.

/s/ DIAN M. GRUENEICH

Dian M. Grueneich
Commissioner

R.08-01-005

D.08-11-033

Commissioner Bohn's Concurrence to D.08-11-033

I support this decision which weighs carefully the Commission's responsibility to ensure that the communications utilities we regulate do not engage in anti-competitive behavior against the Commission's position that it should not micro-manage those utilities or their copper networks. We made our determination that copper retirement rules are not needed at this time based on our assumption that there is adequate competition in the communications marketplace. I have two concerns that stem from this assumption.

First, it would have been better if this decision had adopted an arbitration process to ensure that ILECs and CLECs will work to reach an agreement on a fair price to buy or lease copper loops. If an arbitration process had been adopted, the Commission could have more closely monitored whether ILECs and CLECs are able to reach equitable agreements. Instead, this decision adopts a process requiring ILECs and CLECs to enter into commercial negotiations upon request by CLECs.

While the Commission will not be involved in the negotiation process approved by this decision, ILECs and CLECs should bring to the Commission any claims that a party failed to negotiate in good faith. Thus, even though this Commission did not adopt an arbitration process, ILECs and CLECs may come to the Commission, by filing a complaint for example, to have their concerns heard, as long as they follow the negotiation process outlined in the decision. In this way, the Commission will be able to monitor whether anti-competitive behavior is occurring with regard to the sale or lease of copper loops. Anti-competitive behavior includes unreasonable prices and terms. In its review of any complaints, the Commission will consider whether negotiations were not made in good faith and whether unreasonable terms were proposed in negotiations, as these are hallmarks of anti-competitive behavior.

Second, this decision grants ILECs an exemption from Public Utilities Code Section 851 pursuant to Public Utilities Code Section 853(b) by finding that it is not necessary in the public interest for ILECs to obtain Section 851 approval for the retirement of copper loops. I think it is difficult to know fully at this point whether our grant of a Section 853(b) exemption is actually "in the public

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interest.” Given the evidence in the record at this time, I have concluded that an exemption is appropriate.

I recognize that the Commission may need to revisit its grant of a Section 853(b) exemption. If CLECs assert or demonstrate that ILECs are engaging in anti-competitive behavior with regard to copper loop retirements, then this Commission will reconsider whether to continue granting ILECs an exemption to the requirements of Section 851. A showing that ILECs are retiring copper loops in order to drive competitors out of the marketplace, for example, would be a persuasive argument in demonstrating that a Section 853(b) exemption is not in the public interest.

I want to be very clear to the ILECs and put them on notice: while you are exempted from the requirements of Section 851 for the time being (subject to the notice and negotiation process adopted in this decision), in the future the Commission may find that an exemption is no longer appropriate, and may require you to file Section 851 advice letters to retire copper loops. The Commission has determined in this decision that it is not necessary to regulate copper loop retirement now. But it may find that more regulation is necessary in the future to ensure that there is sufficient competition.

/s/ John A. Bohn

John A. Bohn
Commissioner

D.08-11-033

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**Concurring Opinion of Commissioner Timothy Alan Simon
on the Rulemaking Regarding Whether to Adopt, Amend, or Repeal Regulations
Governing the Retirement by Incumbent Local Exchange Carriers of Copper Loops and
Related Facilities Used to Provide Telecommunications Services
(Rulemaking 08-01-005.)**

There is substantial public benefit in safeguards that foster the preservation of competitive markets. I commend Commissioner Chong for the changes she has made to her Proposed Decision over these intervening weeks in recognition of concerns voiced by my office, the other Commission offices, and, in particular, Commissioner Bohn. I have withdrawn my Alternate because the Revised PD sufficiently—although not completely—addresses policy considerations that I would have proposed.

The revisions permit this Commission to act proactively to protect against the significant threat to competition, customer choice, and public safety that copper retirement poses.

The original PD declined to adopt rules requiring ILECs to obtain Commission approval before permanently removing copper wire local loops from their networks. Although the Revised PD continues to see no current or imminent harm to CLECs, it nonetheless adopts a process for ILECs and CLECs to negotiate in good faith for continuing access to copper loop facilities. Notable, ILECs are admonished to negotiate in good faith with requesting CLECs seeking to purchase copper facility or to have the ILEC maintain access to the loop. Price of competitive access is established at the fair market value of the facility including the ILEC's maintenance and operating costs.

The adopted limited process supports the legislative mandate under Public Utilities Code section 790 for widespread broadband deployment to all Californians. Since the FCC's TRO decision, new technologies unleash the existing copper network—that the FCC had written off—

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are capable of broadband speeds of 20 Mbps to 100 Mbps and supporting state of the art services such as video-conferencing and video on demand. These new emerging broadband technologies, such as VDSL2, ADSL2, and Ethernet over Copper speeds are critical to small and medium sized business customers typically located in buildings not served by fiber and or cable. Wireless is often not practical to meet the high data communications volume needs of these business customers.

It is disconcerting that the Revised PD exempts ILECs from Public Utilities Code section 851's requirements regarding copper loop retirement. The Revised PD may be technically legal, but as a policy matter, I disagree with Commissioner Chong in this respect. Clearly, competitive access to ILEC copper facilities is useful and necessary to support the Commission's obligations under Public Utilities Code section 790 to advance broadband deployment and to CLECs whose very survival depends on access to ILEC copper loop facilities.

In the end, the Revised PD addresses my bottom line—that we facilitate continued competitive access to ILEC owned copper facilities and establish that ILECs and competitors must negotiate in good faith on the terms. To this extent, the Revised PD serves the public interest. Competitive and end-user consumer choice is preserved and protected.

/s/ TIMOTHY ALAN SIMON

Timothy Alan Simon
Commissioner

San Francisco, California
November 6, 2008

EXHIBIT E

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Reducing Barriers to Network Improvements and) WC Docket No. 25-209
Service Changes)
)
Accelerating Network Modernization) WC Docket No. 25-208
)

REPORT AND ORDER

Adopted: March 26, 2026

Released: March 27, 2026

By the Commission: Chairman Carr and Commissioners Gomez and Trusty issuing separate statements.

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I. INTRODUCTION

1. The FCC acts today to unleash new, high-speed infrastructure builds in communities all across the country. We do so by cutting through the red tape that has both required providers to keep aging copper lines in place and effectively prevented them from investing in the modern infrastructure that Americans want and deserve. This action can free up billions of dollars for new builds and represents another step forward in the FCC’s Build America Agenda.

2. Today’s communications marketplace offers consumers and businesses a vast array of advanced communications services far beyond the legacy voice service that first connected Americans in

the 19th century.¹ However, as noted above, the expansion of these modern networks, and the benefits they afford, have been hindered by the need for carriers to divert important resources to the maintenance of aging and deteriorating legacy networks that deliver outdated services to an ever-decreasing number of subscribers. To spur network modernization and achieve the reality of end-to-end Internet Protocol (IP) networks and truly ubiquitous availability of high-speed broadband nationwide, today's actions reduce regulatory burdens, thereby allowing providers to invest more resources toward modernizing their networks so all consumers can access more advanced communications services.

3. The transition from legacy TDM-based networks largely controlled by incumbent local exchange carriers (LECs) to competitive all IP-based networks—i.e., the IP Transition—is a complicated, nationwide, multi-step process.² And it has wide-ranging implications, affecting everything from consumer protection to emergency communications and robust competition.³ The federal government has a strong interest in having a coherent national policy on the transition to an all-IP environment and the benefits it will bring to the people.

4. At the same time, we are moving forward today with a set of common sense reforms and core consumer protections. As we do so, the record shows that certain state and local requirements have been unduly prolonging the use of legacy networks and actually preventing providers from building

¹ See *Technology Transitions et al.*, GN Docket Nos. 13-5 et al., Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, 29 FCC Rcd 1433, 1437-38, paras. 10-11 (2014) (referencing the advent of the telegraph operating over copper wire in 1844 and Alexander Graham Bell's patenting of the telephone in 1876) (*2014 Technology Transitions Order*).

² The Commission is approaching this transition from multiple angles. See, e.g., *Advancing IP Interconnection et al.*, WC Docket No. 25-304 et al., Notice of Proposed Rulemaking, FCC 25-73, at 3, paras. 2-3 (rel. Oct. 29, 2025) (*IP Interconnection Notice*) (seeking to tackle issues relating to “burdensome legacy interconnection regulations that . . . may prevent providers of modern, IP-based networks from interconnecting efficiently” and how to address interconnection in an all-IP world); *Reforming Legacy Rules for an All-IP Future; Accelerating Network Modernization*, WC Docket Nos. 25-311 & 25-208, Notice of Proposed Rulemaking, FCC 26-11, at 1, para. 1 (rel. Feb. 19, 2026) (*ICC Transition Notice*) (acknowledging that “some providers continue to use legacy Time-Division Multiplexing (TDM) equipment, potentially due in part to regulatory incentives embedded in the intercarrier compensation (ICC) regime” and thus proposing “comprehensive reform of the regulatory framework for voice telecommunications rates”); *Facilitating Implementation of Next Generation 911 Services (NG911) et al.*, PS Docket Nos. 21-479 et al., Report and Order, 39 FCC Rcd 8137, 8138, paras. 1-2 (2024) (adopting rules to facilitate the transition to next-generation 911, which will “provide new capabilities and improved interoperability and system resilience”) (*NG911 Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Speech-to-Speech and Internet Protocol (IP) Speech-to-Speech Telecommunications Relay Services*, CG Docket Nos. 03-123, 08-15, Notice of Proposed Rulemaking, FCC 25-79, at 9, para. 18 (rel. Nov. 21, 2025) (*TRS Modernization Notice*) (addressing the need “to proactively adapt TRS obligations and programs, ensuring that all individuals with communication disabilities can continue to access functionally equivalent services in an increasingly IP-centric world”); *Call Authentication Trust Anchor*, WC Docket No. 17-97, Notice of Proposed Rulemaking, 40 FCC Rcd 3467, 3471, para. 9, 3475-76, para. 19 (2025) (explaining that non-IP networks create a gap in the STIR/SHAKEN caller ID authentication scheme and proposing to require providers that have not completed the transition to all IP implement non-IP caller ID authentication solutions); *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126, 10-90, Report and Order, 35 FCC Rcd 686, 687, para. 2 (2020) (implementing the Rural Digital Opportunity Fund as “the Commission’s single biggest step to close the digital divide”); *Connect American Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17667, para. 1 (2011) (*USF/ICC Transformation Order*), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (in which the Commission “comprehensively reform[ed] and modernized[d] the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation”).

³ See *IP Interconnection Notice* at 3, 7, paras. 2, 12.

modern ones by limiting the types of services that may qualify as adequate replacements when carriers seek to discontinue legacy telecommunications services. Our action today addresses these state and local regulatory barriers to ensure the essential transition to an all-IP environment and the benefits it will bring to the people of this nation. State and local statutes and regulations that force providers to continue devoting resources to maintaining deteriorating legacy networks and provisioning near-obsolete services to an ever-decreasing number of subscribers that conflict with the federal regulatory framework established here frustrate federal policies and goals. Our rules must allow providers to focus on deploying next-generation networks provisioning the advanced communications services of today and tomorrow.

5. In this Report and Order, which we adopt 30 years after the passage of the Telecommunications Act of 1996,⁴ we take action to bring the regulatory environment in line with today's telecommunications marketplace while retaining or adopting safeguards to protect public safety and ensure 911 continuity. We first eliminate the filing requirements associated with our rules implementing section 251(c)(5)'s network change disclosure mandate.⁵

6. We next (1) overhaul our rules applicable to technology transitions discontinuance applications under section 214 of the Communications Act of 1934, as amended (the Act),⁶ by adopting one consolidated rule applicable to all technology transitions discontinuance applications and eliminating rule provisions thereby rendered irrelevant;⁷ (2) ease burdens associated with outdated services by granting blanket section 214(a) authority for carriers to grandfather legacy voice services, lower-speed data telecommunications services, and interconnected Voice over IP (VoIP) service provisioned over copper wire; (3) ensure that providers seeking to discontinue a service supporting interconnection trunks or the exchange of traffic ensure seamless 911 connectivity; (4) grant conditional forbearance relief from section 214(a) discontinuance requirements to resellers when the wholesale provider of their resold service engages in a technology transitions discontinuance, recognizing the practical limitations specific to resellers; (5) revise section 63.71 of our rules to apply the 31-day automatic grant period to all discontinuance applications regardless of applicants' status as dominant or non-dominant to reduce unnecessary paperwork and red tape that delays transitions to modernized technologies; (6) clarify the required contents of discontinuance applications to further ensure that discontinuances do not adversely affect the public convenience and necessity; (7) revise our rules applicable to emergency discontinuances to permit permanent discontinuance of the affected service under specific circumstances to support service modernization even during recovery efforts;⁸ and (8) eliminate a number of outdated discontinuance rules that are irrelevant or redundant in today's communications marketplace to alleviate the burdens of unnecessary regulation.⁹

7. Finally, we expressly find that federal law preempts state and local requirements to the extent they needlessly constrain the deployment of modern, next-generation IP-based networks by impeding providers' ability to discontinue providing interstate and jurisdictionally mixed legacy services and to retire outdated and deteriorating legacy networks. Such requirements conflict with the section

⁴ The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. § 151 *et seq.*) (the 1996 Act).

⁵ See 47 U.S.C. § 251(c)(5); 47 CFR §§ 51.325 *et seq.*

⁶ See 47 U.S.C. § 214(a); 47 CFR §§ 63.60 *et seq.* Section 214(a) of the Act provides that a carrier may not discontinue, reduce, or impair a telecommunications service without Commission authorization. Unless otherwise noted, this Notice uses the term "discontinue" or "discontinuance" as a shorthand for the statutory language "discontinue, reduce, or impair."

⁷ See 47 CFR § 63.602.

⁸ See *id.* § 63.63.

⁹ See *id.* §§ 63.66, 63.90, 63.100, 63.504, 63.601.

214(c)'s provision that after a carrier obtains Commission authorization to discontinue a service, it need not obtain any additional authorizations before implementing that discontinuance of service.¹⁰ And they conflict with the important federal policy of encouraging the IP transition so that all Americans have access to its many benefits.

II. BACKGROUND

8. *Network evolution.* With the 1996 Act, Congress sought to promote competition in the evolving communications marketplace.¹¹ Among the market-opening provisions included in the 1996 Act was section 251(c)(5), which requires that an incumbent LEC provide reasonable public notice of “changes in the information necessary for the transmission and routing of services using that local exchange carrier’s facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.”¹² The Commission’s implementing rules set forth the requirements for the timing, methods, and content of such notices.¹³ These requirements were needed to open the marketplace to efficient and effective competition at the time, given incumbent LECs’ control of the nation’s physical communications infrastructure.¹⁴

9. In the decades following the Commission’s implementation of the 1996 Act, the nation’s communications market has evolved in innumerable ways. Competition in the communications marketplace has flourished, with incumbent LECs now holding a minority share of the voice services market.¹⁵ Switched access voice service subject to geographically based (i.e., local and long-distance) pricing has given way to packet-switched, nationwide services that are jurisdictionally neutral, with pricing reflecting this change.¹⁶ That transformation continues as we look to a future of all-IP networks. While voice service remains an important method of communication that originally was available only over copper-based networks, that service is now available via a multitude of transmission mediums, including fiber, wireless, and satellite. And other modes of communications that have since developed, such as video, text, and email, have become just as vital. The availability of telehealth services, remote learning, more robust disability access services, and global economic competitiveness in this increasingly interconnected world have expanded opportunities to communities and populations that previously might have been left behind.¹⁷ The 19th century technology of copper-based networks capable of provisioning basic voice service and limited data bandwidth is no longer sufficient to meet the bandwidth-hungry needs of modern communications and thus has been rendered obsolete by more advanced networks.¹⁸

¹⁰ U.S. Const. amend. XIV, § 1; 47 U.S.C. §§ 152(b), 214(c).

¹¹ See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 et al.*, CC Docket No. 96-98 et al., First Report and Order, 11 FCC Rcd 15499, 15505, para. 1 (1996) (*First Local Competition Order*) (subsequent history omitted).

¹² 47 U.S.C. § 251(c)(5).

¹³ See 47 CFR § 51.325 *et seq.*

¹⁴ See *First Local Competition Order*, 11 FCC Rcd at 15506, para. 4. An incumbent LEC is “with respect to an area, the local exchange carrier that—(A) on February 8, 1996, provided telephone exchange service in such area; and (B)(i) on February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission’s regulations (47 C.F.R. 69.601(b)); or (ii) is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in clause (i).” 47 U.S.C. § 251(h)(1).

¹⁵ See FCC, Office of Economics and Analytics, Voice Telephone Services: Status as of December 31, 2024 at 3, Fig. 2 (2026), <https://docs.fcc.gov/public/attachments/DOC-418460A1.pdf> (December 2024 Voice Telephone Services Report).

¹⁶ See *ICC Transition Notice*, at 3-5, paras. 4-7 (discussing the history of intercarrier compensation).

¹⁷ *USF/ICC Transformation Order*, 26 FCC Rcd at 17667, para. 3.

¹⁸ See, e.g., International Center for Law & Econ. Comments at 6 (asserting that “copper’s limited bandwidth capacity constrains innovation and prevents providers from offering the advanced services consumers demand,” and (continued....)

These new networks also offer reliability benefits over copper wires, which are less resilient than other technologies¹⁹ and are increasingly vulnerable to thefts that lead to emergency discontinuances and disruption for end users.²⁰

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that “next-generation networks offer superior speed, lower latency, enhanced reliability, and massive scalability, which are foundational to economic growth, productivity gains, and consumer welfare in the digital age”); Nokia Comments at 2 (noting the scalability of fiber); Rural & Agricultural Council of America Comments at 2 (noting that “technologies invented in the 1800s can no longer support the data-intensive needs of 21st century rural life or meet consumer demand for reliability, speed, and innovation,” characterizing copper networks as “‘horse and buggy’ infrastructure”); Letter from Harold Singer, Managing Dir., Econ One, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 24-99, at 1 (filed Feb. 26, 2026) (Singer Feb. 26, 2026 *Ex Parte* Letter).

¹⁹ See, e.g., USTelecom Comments at 17-18 (“Copper is also more vulnerable to weather conditions (e.g., flooding) than fiber, and it takes longer to restore than alternative services like wireless, which can run on a portable temporary cell tower (a ‘cell on wheels’)”); International Center for Law & Econ. Comments at 6 (noting that copper networks “are increasingly expensive to operate, consume substantial amounts of power, and are prone to weather-related damage and frequent outages”); Nokia Comments at 3 (“Fiber is also more durable than copper with lower long-term operating costs, making it an essentially future-proof technology that is easier to maintain. While copper corrodes and degrades with weather, fiber is made of silica glass, which does not corrode, and its protective sheathing keeps it sealed from water and chemicals that pose degradation risks.”); Mark J. Fletcher Comments at 2 (asserting that copper “is deteriorating in the field” and that fiber “is functionally ageless,” and “doesn’t corrode, fatigue, or degrade the way copper does”); Letter from Eric Fruits & Brian Albrecht, International Center for Law and Econ., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 25-209, at 1-2, Attach. at 1 (filed Feb. 27, 2026) (ICLE Feb. 27, 2026 *Ex Parte* Letter); *Wireless Network Resiliency During Disasters*, FCC (last updated June 4, 2024), <https://www.fcc.gov/wireless-network-resiliency-during-disasters#:~:text=The%20Mandatory%20Disaster%20Response%20Initiative,of%20these%20requirements%20during%20emergencies> (describing the Commission’s Mandatory Disaster Response Initiative, with which applicable wireless providers had to comply by May 1, 2024); *Resilient networks are redundant networks*, Wireless Infrastructure Ass’n (Mar. 10, 2022), <https://wia.org/resilient-networks-are-redundant-networks/> (noting that “[w]ireless connectivity requires the difficult, but far less onerous [than restoring power to large areas after natural disasters], challenge of providing power only to the transmission site such as a tower to serve all the households in the service area regardless of if they have power on their premises,” the availability of cells on wheels “to provide temporary network capacity,” and other examples of wireless network resiliency); *Why Does Fiber Internet Perform Better During Bad Weather?*, Hunter Communications (Mar. 21, 2025), <https://hunterfiber.com/fiber-internet-performs-better-during-bad-weather/#:~:text=Unlike%20copper%20wires%2C%20which%20are%20prone%20to,severe%20thunderstorms%2C%20heavy%20snowfall%2C%20or%20extreme%20humidity> (noting that copper wires “are prone to corrosion” and that “fiber-optic cables do not conduct electricity, making them impervious to lightning strikes, electrical interference, and moisture-related damage”); *Comparing the Durability of Fiber Optic and Copper Cables*, Linden Photonics, Inc. (Sept. 4, 2024), <https://www.lindenphotonics.com/comparing-the-durability-of-fiber-optic-and-copper-cables> (stating that fiber optic cables are less susceptible to corrosion, can function effectively in a wide range of temperatures, generally have a longer lifespan than copper cables because they do not degrade as quickly, and are generally cheaper due to reduced maintenance costs and longer lifespan, particularly in “environments where durability is critical”); see also *Facilitating Implementation of Next Generation 911 Services (NG911); Improving 911 Reliability*, PS Docket Nos. 21-479 and 13-75, Further Notice of Proposed Rulemaking, 40 FCC Rcd 2668, 2676, para. 18 (2025) (*NG911 Further Notice*) (noting that IP-based “NG911 architecture offers distinct advantages over legacy 911 technologies, including the possibility of greater reliability, redundancy, interoperability, and accessibility”).

²⁰ See, e.g., USTelecom Comments at 17-18; Singer Feb. 26, 2026 *Ex Parte* Letter at 2. Before 2022, the Commission processed only one copper retirement caused by copper theft, in 2014, since it implemented section 251(c)(5)’s the network change disclosure requirements in 1996. See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 et al.*, CC Docket No. 96-98 et al., Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19468-98, paras. 165-236 (1996). Between early 2022 and the time the Commission’s Wireline Competition Bureau waived the filing requirements in its network change disclosure rules in March 2025, see *Accelerating Wireline Broadband Deployment by Removing Barriers to*

(continued....)

10. *Regulatory history and recent relief.* As section 214(a) of the Act requires carriers to obtain Commission authorization before discontinuing a telecommunications service,²¹ the Commission over a decade ago began affirmatively exploring how to “position all the players . . . to prepare for, maintain, and facilitate the momentum of technological advances that are already occurring,”²² acknowledging that the nation was approaching the “tipping point” that would lead to “the turning off of the legacy suite of services that has served our nation well.”²³ In 2016, the Commission determined that discontinuances involving technology transitions should include heightened scrutiny as to the adequacy of the replacement service(s) available to affected customers.²⁴ It thus created the Adequate Replacement Test, which a carrier had to satisfy in order to be eligible for streamlined treatment.²⁵ With the Adequate Replacement Test, the Commission sought “to minimize uncertainty or confusion that could slow or even discourage technology transitions.”²⁶ It then amended its technology transitions discontinuance rules in 2018 to provide an additional, more streamlined option, the Alternative Options Test, for carriers seeking to discontinue legacy voice services.²⁷

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Infrastructure Investment, WC Docket No. 17-84, Order, 40 FCC Rcd 2026 (WCB 2025) (*NCD Waiver Order*), it received eleven—one in 2022, three in 2023, six in 2024, and one in the first three months of 2025. And incumbent LECs filed 11 emergency discontinuance applications in 2024 and 19 in 2025, with another seven already filed in the first 3 months of 2026.

²¹ Section 214(a) of the Act requires that carriers obtain Commission authorization before discontinuing a telecommunications service, to a community or part of a community in order to “prevent[] a loss or impairment of a service offering to a community or part of a community without adequate public interest safeguards.” 47 U.S.C. § 214(a); *see also Western Union Tel. Co. Petition for Order to Require the Bell System to Continue to Provide Group/Supergroup Facilities*, Memorandum Opinion and Order, 74 F.C.C.2d 293, 296, para. 6 and n.4 (1979) (*Western Union Discontinuance Order*) (discussing legislative history surrounding the 1943 amendment to section 214(a) adding discontinuance requirements).

²² *2014 Technology Transitions Order*, 29 FCC Rcd at 1435, para. 2.

²³ *Id.* at 1436, para. 3.

²⁴ *Technology Transitions et al.*, WC Docket No. 13-5 et al., Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283 (2016) (*2016 Technology Transitions Order*). A “technology transition” is defined as “any change in service that would result in the replacement of a wireline TDM-based voice service with a service using a different technology or medium for transmission to the end user, whether Internet Protocol (IP), wireless, or another type.” 47 CFR § 63.60(i).

²⁵ *2016 Technology Transitions Order*, 31 FCC Rcd at 8304-05, para. 64. An application to discontinue an interstate switched access service that is eligible for streamlined treatment is automatically granted on the 31st day after filing unless the Commission has notified the applicant otherwise. 47 CFR § 63.71(f)(1); *see also 2016 Technology Transitions Order*, 31 FCC Rcd at 8290, para. 19 (declaring all carriers to be non-dominant in the provision of interstate switched access service). The Adequate Replacement Test requires that a technology transition discontinuance application satisfy three requirements in order to be eligible for streamlined processing: (1) demonstrate that an adequate replacement for their voice service exists “by either certifying or showing, based on the totality of the circumstances, that one or more replacement service(s) . . . offers substantially similar levels of network infrastructure and service quality”; (2) “show the replacement service complies with regulations regarding the availability and functionality of 911 service for consumers and public safety answering points”; and (3) “offers interoperability with key applications and functionalities.” 47 CFR § 63.602(b).

²⁶ *2016 Technology Transitions Order*, 31 FCC Rcd at 8307, para. 70.

²⁷ *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Second Report and Order, 33 FCC Rcd 5660, 5673, para. 30 (2018) (*Second Wireline Infrastructure Order*). Under the Alternative Options Test, an application seeking authorization to discontinue a legacy retail voice service as a part of a technology transition is eligible for streamlined treatment if (1) the applicant offers a stand-alone interconnected VoIP service throughout the affected service areas, and (2) at least one other alternative stand-alone facilities-based wireline or wireless voice service is available from another unaffiliated provider throughout the affected service area, unless the Commission notifies the applicant otherwise. The Commission’s rules define

(continued....)

11. In March 2025, the Commission's Wireline Competition Bureau (Bureau) issued an Order in which it waived for two years the network change notice filing requirements set forth in the Commission's rules implementing section 251(c)(5).²⁸ In March and May 2025, the Bureau issued a series of Orders addressing various discontinuance requirements.²⁹ In July 2025, in the *Network and Services Modernization Notice*, we sought comment on various proposals to reduce regulatory barriers associated with sections 214(a) and 251(c)(5), including whether we should codify the relief granted in the March and May 2025 Bureau *Orders*, in order to further accelerate the transition from copper networks and the legacy services they carry to modern, more resilient networks provisioning more advanced communications services.³⁰

III. DISCUSSION

A. Eliminate Network Change Disclosure Filing Requirements

12. We adopt our proposal in the *Network and Services Modernization Notice* to encourage rapid deployment of high-speed, more resilient infrastructure by eliminating all filing requirements in the Commission's network change disclosure rules and the Commission's process of issuing public notices for short-term network changes and copper retirements and the associated objection process for interconnected service providers.³¹ These actions effectively codify the relief granted by the Bureau in

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"interconnected VoIP service" as a service that (i) enables real-time, two-way voice communications; (ii) requires a broadband connection from the user's location; (iii) requires Internet protocol-compatible customer premises equipment (CPE); and (iv) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. 47 CFR § 9.3. A service is "stand-alone" if a customer is "not required to purchase a separate broadband service to access the voice service." *Id.* § 63.71(f)(2)(iii).

²⁸ See generally *NCD Waiver Order*, 40 FCC Rcd 2026 (waiving, for a period of two years, (1) the filing requirements in the Commission's network change disclosure rules adopted pursuant to section 251(c)(5) of the Act, and (2) the Commission's process of issuing public notices for short-term network changes and copper retirements, as well as the associated objection process for interconnected service providers). Based on the actions we take today, we dismiss as moot an Application for Review of the *NCD Waiver Order* and the other Bureau-level *Orders* in note 29, *infra*. See Application for a Full Review by the Full Commission; & Other Actions Requested, WC Docket No. 17-84 (filed Apr. 21, 2025).

²⁹ *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, 40 FCC Rcd 1999 (WCB 2025) (*Stand-Alone and Single-Service Waiver Order*) (waiving for a period of two years (1) the "stand-alone" requirement in the Alternative Options Test, and (2) the requirement that a single replacement service satisfy all three prongs of the Adequate Replacement Test); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, 40 FCC Rcd 2014 (WCB 2025) (*Testing Clarification Order*) (clarifying that the testing parameters and requirements in the 2016 *Technology Transitions Order*'s Technical Appendix do not apply to the Adequate Replacement Test's totality of the circumstances showing); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, 40 FCC Rcd 2019 (WCB 2025) (*March 2025 Grandfathering Order*) (eliminating any application filing requirements associated with grandfathering a legacy voice service, or a data telecommunications service operating at speeds below 25/3 Mbps); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, 40 FCC Rcd 3357 (WCB 2025) (*May 2025 Grandfathering and Technical Appendix Order*) ((1) eliminating any application filing requirements associated with grandfathering an interconnected VoIP service provisioned over copper wire, and (2) waiving, for a period of two years, the testing parameters and requirements in the 2016 *Technology Transitions Order*'s Technical Appendix).

³⁰ *Network and Services Modernization Notice*, 40 FCC Rcd 5329.

³¹ See generally *id.* at 5378, 5382, paras. 3, 12. We note that, while not required by the existing rules, the Bureau typically released Public Notices of long-term network changes as well. However, the objection process set forth in section 51.333 did not apply to such network change notices.

the *NCD Waiver Order*.³² Incumbent LECs will continue to be required to post public notice of planned network changes through industry fora, industry publications, or on the carrier's publicly accessible Internet site without the obligation to file duplicative information with the Commission.³³ To ensure clear notice specifically to interconnecting carriers, incumbent LECs must continue to (1) provide direct notice of copper retirements and short-term network changes to directly interconnected telephone exchange service providers, 911 service providers,³⁴ and directly interconnecting local exchange service providers that support essential functions within 911 networks, including delivering 911 traffic to selective routers for transmission to public safety answering points (PSAPs),³⁵ and (2) provide public notice and communicate directly with interconnected telephone exchange service providers about network changes resulting from *force majeure* events and other events outside of the incumbent LEC's control.³⁶ We note that the action we take today does not absolve incumbent LECs of their obligation under section 214(a) to obtain Commission authorization for a copper retirement or other network change as defined in section 51.325(a) of our rules³⁷ that also results in a service discontinuance³⁸ and, indeed, works hand-in-hand with our actions taken below to ensure continued 911 connectivity when a carrier seeks to discontinue a service supporting interconnection trunks or the exchange of traffic, including but not limited to 911 trunks and 911 traffic.³⁹

³² See generally *id.*, 40 FCC Rcd 2026.

³³ 47 CFR § 51.329(a)(2).

³⁴ Defined as an entity that provides 911, E911, or NG911 capabilities such as call routing, automatic location information (ALI), automatic number identification (ANI), or the functional equivalent of those capabilities, directly to a public safety answering point (PSAP), statewide default answering point, or appropriate local emergency authority as defined in § 9.3; and/or operates one or more central offices that directly serve a PSAP.

³⁵ See Letter Tamar E. Finn, Counsel to Bandwidth, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 25-209 et al., at 1 (filed Mar. 17, 2026) (Bandwidth Mar. 17, 2026 *Ex Parte* Letter); Letter from Lauren Kravetz, Vice Pres., Gov't Affairs, Intrado Life & Safety, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-209, 25-208, at 1-2 (filed Mar. 13, 2026) (Intrado Mar. 13, 2026 *Ex Parte* Letter).

³⁶ 47 CFR § 51.333(a), (g). As previously noted by the Commission, our network change disclosure rules do not negate any specific notice obligations contained in privately negotiated contracts. See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 32 FCC Rcd 11128, 11140, para. 29 (2017) (*First Wireline Infrastructure Order*).

³⁷ 47 CFR § 51.325(a).

³⁸ See 47 U.S.C. § 214(a); 47 CFR §§ 63.62(a)-(b), 63.500, 63.501; *First Wireline Infrastructure Order*, 32 FCC Rcd at 11138, para. 24.

³⁹ See *infra* Section III.B.3.; Letter from Tamar E. Finn, Counsel to Bandwidth, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 25-209 et al., at 2-3 (filed Feb. 27, 2026) (Bandwidth Feb. 27, 2026 *Ex Parte* Letter) ("The Commission should not permit an automatic grant of a discontinuance application to undermine public safety."). We note that INCOMPAS has asked that "copper retirement must not be permitted in areas where competitive providers rely on legacy loops to reach end-user customers and where no viable wholesale replacement exists." INCOMPAS Comments at 8. And CWA has asserted that the actions we take today "fail[] to account for the significant workforce implications associated with accelerated copper retirement." Communications Workers of America *Ex Parte* Comments, WC Docket Nos. 25-209, 25-208, at 2 (filed Mar. 18, 2026) (CWA Mar. 18, 2026 *Ex Parte* Letter). However, as the Commission has previously noted, section 251(c)(5) established a notice-based network change disclosure process, and the Commission thus has no authority to prohibit copper retirements. See *First Wireline Infrastructure Order*, 32 FCC Rcd at 11137-38, paras. 23-24. And impacts of our actions on the workforce are similarly outside the scope of the purpose of section 251(c)(5)'s public notice requirement, which pertains to impacts on interoperability of the communications networks. See 47 U.S.C. § 251(c)(5).

13. Excessive regulatory burdens prevent carriers from investing in and deploying next-generation networks that are needed to support modern communication services.⁴⁰ Various commenters have noted that eliminating all filing requirements while maintaining the public notice requirements will streamline the transition from legacy networks while still ensuring interconnecting entities receive adequate notice.⁴¹ We agree with NTCA that this approach “strike[s] the appropriate balance between reducing regulatory burden and ensuring stakeholders remain informed of network changes.”⁴²

14. We find that adopting the change in filing and notice requirements proposed in the *Network and Services Modernization Notice* will not have any impact on the notices end users receive of planned network changes. Neither section 251(c)(5) nor our implementing rules impose end-user notice obligations.⁴³ Rather, carriers provide such notices to end users as a matter of practice.⁴⁴ In the *NCD Waiver Order*, the Bureau noted that it received no comments in opposition to the more than 400 network change disclosure filings it processed and for which it released public notices over the preceding two years.⁴⁵ And since issuing that *Order*, the Bureau has received no request or objection indicating that the lack of a filing or agency-issued Public Notice has resulted in disruption to the transmission or routing of services over an incumbent LEC’s facilities. In response to our requests for comment in the *Network and Services Modernization Notice* on whether any public benefit exists from requiring incumbent LECs to file network change disclosures with the Commission⁴⁶ and whether publishing notices of network changes on carriers’ websites provides reasonable public notice of network changes,⁴⁷ commenters suggest the lack of objections submitted in response to Commission network change Public Notices indicates that filing network change disclosures has become a purely administrative task that does not provide any value.⁴⁸ Interconnected telephone exchange service providers may still raise concerns regarding short-term network changes and copper retirements through less formal Commission processes.⁴⁹

15. We conclude that eliminating all filing requirements and publication of Commission-issued public notices will reduce delays and encourage development and deployment of modernized networks.⁵⁰ Reducing regulatory costs and obligations encourages investment in modern networks and advanced communications services in all areas, especially those that are expensive to serve due to low

⁴⁰ *NCD Waiver Order*, 40 FCC Rcd at 2029, para. 8; *First Wireline Infrastructure Order*, 32 FCC Rcd at 11142, para. 33.

⁴¹ WTA—Advocates for Rural Broadband (WTA) Comments at 2; Nokia Comments at 2; Telecommunications Industry Ass’n Comments at 5-6; USTelecom Comments at 38. CWA Mar. 18, 2026 *Ex Parte* Letter at 2 (“Premature retirement of copper infrastructure without verified, fully operational replacement systems creates unacceptable risks to public safety and emergency communications continuity”).

⁴² NTCA—The Rural Broadband Ass’n (NTCA) Comments at 4.

⁴³ *First Wireline Infrastructure Order*, 32 FCC Rcd at 11147, para. 45; *see also* Vantage Point Solutions Comments at 3.

⁴⁴ *See First Wireline Infrastructure Order*, 32 FCC Rcd at 11147, para. 45.

⁴⁵ *NCD Waiver Order*, 40 FCC Rcd at 2030, para. 11.

⁴⁶ *Network and Services Modernization Notice*, 40 FCC Rcd at 5334, para. 13.

⁴⁷ *Id.*

⁴⁸ *See* Telecommunications Industry Ass’n Comments at 5-6; NTCA Comments at 3; WTA Comments at 2; International Center for Law and Econ. Comments at 7.

⁴⁹ *NCD Waiver Order*, 40 FCC Rcd at 2030-31, para. 12 (citing 47 CFR § 1.41).

⁵⁰ *Id.*; Wireless Infrastructure Ass’n Comments at 1; Nokia Comments at 2; Telecommunications Industry Ass’n Comments at 5-6; USTelecom Comments at 38.

population density or challenging topography. Carriers will not need to divert funds and resources to complying with burdensome regulations, allowing them to devote these resources elsewhere.⁵¹

16. We are not persuaded by the Alarm Industry Communications Committee's assertion that having network change notices only posted on incumbent LECs' publicly accessible websites "significantly reduces public visibility of critical infrastructure changes."⁵² The purpose of section 251(c)(5)'s public notice requirement was to promote competition.⁵³ When the Commission adopted its regulations implementing section 251(c)(5), it noted the limited resources available to smaller carriers that might not participate in industry fora and publications.⁵⁴ It thus included the filing requirement to ensure that "all carriers, competing service providers, and potential competitors . . . have equal opportunities to provide and to receive change information on a national scale."⁵⁵ And when the Commission expressly added copper retirements to its network change disclosure scheme, it required that incumbent LECs provide direct notice of such network changes to interconnecting telephone exchange service providers, ensured that those interconnecting carriers received at least 90-days advance notice of the planned copper retirement, afforded those providers the opportunity to object, and noted that objections would be deemed denied "[u]nless the copper retirement scenario suggests that competitors will be denied access to the loop facilities required under our rules" absent Commission action on the objection within the 90-day advance notice period.⁵⁶ Thus, the purpose of the filing requirement was never about "public visibility of critical infrastructure changes." However, we require that the method of notice the incumbent LEC uses be publicly accessible—i.e., not behind a paywall.⁵⁷

17. We do not take the alternative approach of forbearing from all public notice requirements imposed by section 251(c)(5) and our implementing rules because we find that forbearance is not justified at this time.⁵⁸ Section 10 of the Act requires the Commission to forbear from applying any requirement of

⁵¹ While the Commission cannot direct how incumbent LECs spend money gained from the reduction in regulatory costs and obligations, reducing costs associated with deployment of networks generally makes all service areas attractive for investment. See *NCD Waiver Order*, 40 FCC Rcd at 2029-31, paras. 8, 12; Nokia Comments at 2-4; Wireless Infrastructure Ass'n Comments at 1; Singer Feb. 26, 2026 *Ex Parte* Letter at 1; cf. Fiber Broadband Ass'n & Cartesian, Fiber Deployment Cost Annual Report (2025) (2025 FBA-Cartesian Fiber Deployment Cost Report) (stating that the growth in fiber deployment "is largely driven by private investment from Incumbent Local Exchange Carriers, or ILECs, that have been rapidly expanding their fiber footprints through acquisitions, joint ventures, legacy network upgrades, and expansions"), <https://fiberbroadband.org/wp-content/uploads/2026/01/FBA-Cartesian-Fiber-Deployment-Cost-Annual-Report-2025.pdf>. But see, e.g., AARP Comments at 7 (stating that reducing regulatory burdens may not encourage incumbent LECs to deploy advanced networks in unprofitable markets but that they "may choose instead to simply use those unspent monies to increase shareholder dividends").

⁵² AICC Comments at 8.

⁵³ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 et al.*, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19471, para. 171 (1996) (*Second Local Competition Order*); see also *id.* at 19479, para. 188 (concluding that the Commission "should adopt a requirement of uniform public notice of sufficient information to deter anticompetitive behavior").

⁵⁴ *Id.* at 19483, para. 199.

⁵⁵ *Id.*

⁵⁶ See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers et al.*, CC Docket No. 01-338 et al., Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, 17141, 17146-67, paras. 271, 281-83 (2003); see also 47 CFR § 51.333.

⁵⁷ See *infra* Appx. A, § 51.329(a).

⁵⁸ See AARP Comments at 15; AICC Comments at 13; Intrado Comments at 1-2; NASUCA et al. Reply at 17; Public Knowledge/CWA Comments at 8-9. But see Digital Progress Inst. Comments at 2-4 (supporting

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the Act or of its regulations to a telecommunications carrier or telecommunications service if the Commission determines that (1) enforcement of the requirement “is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory,” (2) enforcement of that requirement “is not necessary for the protection of consumers,” and (3) “forbearance from applying such provision or regulation is consistent with the public interest.”⁵⁹ All three conditions must be met to support forbearance relief.⁶⁰

18. Based on the record in this proceeding,⁶¹ we conclude that the conditions for granting forbearance relief from all network change disclosure requirements do not exist at this time and that any framework or guidance regarding interconnection with incumbent LEC networks during and after the transition to IP is more appropriately addressed in the context of the proposed forbearance from the incumbent LEC-specific interconnection and related obligations in the October 2025 *IP Interconnection Notice*.⁶² The rule we adopt today eliminating network change disclosure filing requirements achieves the appropriate balance between providing reasonable public notice of planned network changes and relieving incumbent LECs of unnecessary regulatory burdens.⁶³

19. *Ensuring practices are just and reasonable (section 10(a)(1)).* We conclude that enforcement of the public notice requirements imposed by section 251(c)(5) and our implementing rules is necessary to ensure incumbent LECs’ practices are just and reasonable. Forbearance from all requirements in section 251(c)(5) and our implementing rules would allow incumbent LECs to make network changes or copper retirements without public notice, which might affect interoperability with interconnecting providers and may result in unintended service disruptions.⁶⁴ Public notice of network changes generally and copper retirement notices specifically ensures that incumbent LECs’ practices are “just and reasonable and are not unjustly or unreasonably discriminatory”⁶⁵ by requiring that

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forbearance); Information Technology & Information Foundation Comments at 3 (supporting forbearance); International Center for Law & Econ. Comments at 7-8 (supporting forbearance).

⁵⁹ 47 U.S.C. § 160(a).

⁶⁰ *Cellular Telecomms. & Internet Ass’n v. FCC*, 330 F.3d 502, 509 (D.C. Cir. 2003) (explaining that the three prongs of section 10(a) are conjunctive and that the Commission could properly deny a petition for failure to meet any one prong). We disagree with Wired Broadband et al.’s assertion that section 251(c)(5)’s public notice requirement “is part of Americans’ procedural due process rights” under the Fifth Amendment. Wired Broadband, Inc. et al. Comments at 4. This requirement is not subject to the Fifth Amendment’s due process clause as the public notice required under that statutory provision is issued by a private company, not a government entity. *See* U.S. Const. amend. XIV, § 1; *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345 (1974). Thus, while we decline to forbear from these public notice requirements at this time, we note that future forbearance from these requirements would not violate the Constitution as the public notice is issued by a private company not a government entity.

⁶¹ *See Network and Services Modernization Notice*, 40 FCC Rcd at 5334-37, paras. 14-20; *see also, e.g.*, AARP Comments at 15; AICC Comments at 13; Intrado Comments at 1-2; NASUCA et al. Reply at 17; Public Knowledge/CWA Comments at 8-9.

⁶² *See IP Interconnection Notice* at 3, para. 4; *see also* Bandwidth Comments at 4-5.

⁶³ *See* NTCA Comments at 4 (“While NTCA appreciates the Commission’s thorough exploration of forbearance as an alternative approach and believes there are arguments for such an approach, targeted rule changes through notice-and-comment rulemaking should provide sufficient and more direct relief without the need for the more complex and time-consuming process of utilizing the forbearance framework. The proposals for eliminating filing requirements while maintaining reasonable public notice obligations through carriers’ own channels strike the appropriate balance between reducing regulatory burden and ensuring stakeholders remain informed of network changes. Clear streamlined rules will better serve both carriers and consumers than layering forbearance analysis atop existing regulatory structures.”).

⁶⁴ *Network and Services Modernization Notice*, 40 FCC Rcd at 5335, para. 17.

interconnecting carriers receive timely notice regarding changes that may inhibit their ability to provide services to their end-user customers.⁶⁶

20. *Ensuring protection of consumers (section 10(a)(2)).* We find that enforcement of the public notice requirements imposed by section 251(c)(5) and our implementing rules is necessary for the protection of consumers. The requirement that incumbent LECs provide reasonable public notice of network changes is meant to alert interconnecting carriers to changes that might affect their interoperability with the incumbent LEC's network.⁶⁷ Lack of such notice and the opportunity to ensure interoperability might cause unintentional disruption of services, ultimately harming consumers.⁶⁸

21. *Consistent with the public interest (section 10(a)(3)).* We conclude that forbearance from the public notice requirements imposed by section 251(c)(5) and our implementing rules would not be consistent with the public interest.⁶⁹ As shown overwhelmingly in the record, lack of notice at this time could significantly impact the provision of 911 services.⁷⁰ While the transition to Next-Generation 911 (NG911) is progressing alongside broader IP modernization, the NG911 transition faces unique challenges and may not be complete for some time.⁷¹ As we noted in the *Network and Services Modernization Notice*, "network transitions subject to section 251(c)(5) may occur in areas where 911 authorities and originating service providers (OSPs) have not yet transitioned to . . . [NG911] and will therefore continue for some time to rely on legacy selective routers and other TDM-based infrastructure for delivery of 911 calls to public safety answering points (PSAPs)" during this period of overlap.⁷² Until the NG911 transition is complete, it is imperative that carriers coordinate with state and local 911 Authorities and 911 service providers, as defined above, and directly interconnecting local exchange service providers that support essential functions within 911 networks so that they are aware of network changes that could impact their ability to provide these critical services.⁷³

B. Section 214 Discontinuance

22. We next revise our rules implementing section 214(a) of the Act to bring them in line with the realities of today's communications marketplace. First, we adopt our proposal to simplify our rules applicable to technology transitions discontinuances by establishing one consolidated rule applicable to all technology transitions discontinuance applications.⁷⁴ Second, we adopt our proposal to grant

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⁶⁵ 47 U.S.C. § 160(a)(1).

⁶⁶ See NASUCA et al. Reply at 17; Public Knowledge/CWA Comments at 8.

⁶⁷ *Network and Services Modernization Notice*, 40 FCC Rcd at 5336, para. 18.

⁶⁸ See NASNA Comments at 2-3; Intrado Comments at 6; NENA Comments at 1-2; Public Knowledge/CWA Comments at 8-9; NASUCA et al. Reply at 17.

⁶⁹ See, e.g., Public Knowledge/CWA Comments at 8-9 (asserting that "[p]ublic notice of such network changes remains important in ensuring that consumers, businesses, and government agencies using services that interconnect with other carriers are not harmed").

⁷⁰ NASNA Comments at 2-3; NENA Comments at 1-2; Intrado Comments at 6; INCOMPAS Comments at 8; Public Knowledge/CWA Comments at 8-9; NASUCA et al. Reply at 17; Comtech Comments at 4.

⁷¹ See *NG911 Order*, 39 FCC Rcd at 8189-96, paras. 113-31 (addressing the transition timeline for NG911).

⁷² *Network and Services Modernization Notice*, 40 FCC Rcd at 5337, para. 20 (citing *NG911 Order*, 39 FCC Rcd 8137).

⁷³ See, e.g., NENA Comments at 2; Comtech Comments at 4-5; Intrado Comments at 6; Public Knowledge/CWA Comments at 8-9; NASUCA et al. Reply at 17; Competitive Carriers Ass'n Reply at 4-5; see also *Network and Services Modernization Notice*, 40 FCC Rcd at 5337, para. 20.

⁷⁴ *Network and Services Modernization Notice*, 40 FCC Rcd at 5330, 5339-40, paras. 4, 26-27. Our technology transitions discontinuance rules apply only to discontinuance of a retail wireline voice service—i.e., loop-side

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blanket authorization for carriers to grandfather any legacy voice service, data telecommunications services operating at speeds below 25/3 Mbps, and interconnected VoIP service provisioned over copper facilities.⁷⁵ Third, we establish requirements for applications to discontinue a service supporting interconnection trunks or the exchange of traffic, to ensure continued support for 911 service and also to ensure access for interconnecting providers on non-TDM services. Fourth, we forbear from section 214(a) requirements in certain circumstances for resold service. Fifth, we adopt our proposal to apply a 31-day automatic grant period to all discontinuance applications regardless of the applicant's status as dominant or non-dominant.⁷⁶ Sixth, we clarify the required contents of discontinuance applications.⁷⁷ Seventh, we adopt our proposal to revise our rules applicable to emergency discontinuances to address specific situations where a carrier may wish to permanently discontinue a service after the Commission has granted emergency discontinuance authority.⁷⁸ Finally, we clear from the books outdated and irrelevant discontinuance rules.⁷⁹ We do not act at this time on our proposal to forbear from the requirement that carriers provide notice of planned discontinuances to State Governors and the Secretary of Defense, as required by section 214(b).⁸⁰

1. Creating One Consolidated Technology Transitions Discontinuance Rule

23. As part of the Commission's ongoing efforts to reduce regulatory burdens and thus allow providers to invest more resources toward modernizing their networks and developing and deploying newer, more advanced services, we adopt our proposal in the *Network and Services Modernization Notice* to revise the rules applicable to technology transitions discontinuances by replacing the Adequate Replacement Test and the Alternative Options Test with a single consolidated technology transitions discontinuance rule.⁸¹ In conjunction with this revision, we also eliminate section 63.602 and amend section 63.71 of our rules to set forth content requirements applicable to all discontinuance applications, including certain information set forth in section 63.505.⁸² With respect to technology transitions discontinuance applications, we continue to require that applications contain a statement identifying the application as involving a technology transition. This consolidated rule stipulates that an application to discontinue a currently offered retail voice service as part of a technology transition is eligible for streamlined processing if the applicant certifies that one or more of the following replacement services is available in every location throughout the affected service area:⁸³ (1) a facilities-based interconnected

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services. It does not apply to trunk-side services provided to another carrier, such as interconnection trunks. *See* 47 CFR § 63.60(i); *see also* Bandwidth Comments at 2-4.

⁷⁵ *Id.* at 5356, para. 69.

⁷⁶ *Id.* 5330-31, 5360-61, paras. 5, 85-87.

⁷⁷ *See infra* Section III.B.6.

⁷⁸ *Network and Services Modernization Notice*, 40 FCC Rcd at 5331, 5363, paras. 5, 95.

⁷⁹ *Id.* at 5331, 5364-69, paras. 5, 102-15, 118-24.

⁸⁰ *Id.* at 5361-62, paras. 4, 90-91.

⁸¹ The provisions of section 63.71(f)(2) pertain to last-mile, end-user legacy voice service.

⁸² *See infra* Section III.B.6; *see also* 47 CFR § 63.602(a) (requiring technology transitions discontinuance applications to set forth the information required by section 63.505).

⁸³ In adopting the Adequate Replacement Test, the Commission stated that “in order to meet [the network coverage] prong and thus be eligible for streamlined processing, a replacement service must be available to all affected customers covering the entire geographic scope of the service area subject to the application and actually function as intended for affected customers, or else it cannot be certified as a replacement service for those customers,” thus “promot[ing] the core value established by the Act, including that of ensuring universal access.” *2016 Technology Transitions Order*, 31 FCC Rcd at 8328, para. 123. Commenter concerns regarding “reliance on facilities not yet built and technologies not yet deployed,” *see* Public Knowledge/CWA Comments at 15, are obviated by the

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VoIP service;⁸⁴ (2) a facilities-based mobile wireless service; (3) a voice service offered pursuant to an obligation from one of the Commission's modernized high-cost support programs; (4) a voice service that has been available from the applicant throughout the affected service area for the previous six months and for which the carrier has at least a certain number of existing subscribers and which supports access to 911; or (5) a widely available alternative voice service that supports access to 911. Upon due consideration of the record in this proceeding and the ample support for this approach reflected therein,⁸⁵ we find that this rule will accelerate the application process while simultaneously protecting legacy service customers by ensuring that they have replacement service options available to them when their legacy service is discontinued. This in turn will ensure that consumers receive the benefits of technology transitions with "all reasonable efficiency."⁸⁶

24. We find that replacing both the Adequate Replacement Test and the Alternative Options Test with the single consolidated rule we adopt today, along with the application content requirements discussed below,⁸⁷ will more effectively accelerate and streamline the technology transitions discontinuance process while still providing adequate protection to consumers. We find that, rather than minimizing uncertainty and confusion, the Adequate Replacement Test actually caused widespread confusion that may have prevented carriers from pursuing technology transition discontinuances under the test, as evidenced by the fact that the Commission did not receive its first technology transitions discontinuance application pursuant to the Adequate Replacement Test until nearly eight years after the rule was adopted and six years after its effective date.⁸⁸ We further find that the Alternative Options Test has failed to align with competitive marketplace options and has hampered investment and innovation in modern services by effectively discouraging applicants from filing to discontinue legacy voice services under that test. Indeed, in the nearly seven years since the Alternative Options Test was adopted, the Bureau has found that presumptive streamlined treatment under the test was utilized only eight times.⁸⁹ We agree with the International Center for Law & Economics that making it costly and time-consuming for carriers to exit obsolete and inefficient copper-based services slows the flow of capital toward the

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requirement that the replacement service must be available in all locations throughout the affected service area in order to be eligible for streamlined processing.

⁸⁴ A facilities-based service is any service that is offered using (1) physical facilities that the provider owns and that terminate at the end-user premises; (2) facilities that the provider has obtained the right to use from other entities, such as dark fiber or satellite transponder capacity as part of its own network, or has obtained; (3) unbundled network element (UNE) loops, special access lines, or other leased facilities that the entity uses to complete terminations to the end-user premises; (4) wireless spectrum for which the provider holds a license or that the provider manages or has obtained the right to use via a spectrum leasing arrangement or comparable arrangement pursuant to 47 CFR §§ 1.9001-1.9080; or (5) unlicensed spectrum. *See* 47 CFR § 1.7001(a)(2).

⁸⁵ *See, e.g.*, Center for Regulatory Freedom Comments at 6-7; International Center for Law & Econ. Comments at 10; NTCA Comments at 5-8; Telecommunications Industry Ass'n Comments at 3-5; U.S. Chamber of Commerce Comments at 2; USTelecom Comments at 23; WTA Comments at 3; USTelecom Reply at 9-10.

⁸⁶ *Network and Services Modernization Notice*, 40 FCC Rcd at 5340, para. 27.

⁸⁷ *See infra* Section III.B.6.

⁸⁸ *Comments Invited on AT&T's Section 214 Application to Grandfather and Discontinue Legacy Voice Service as Part of a Technology Transition*, WC Docket No. 24-220, Public Notice, DA 24-1158 (WCB Nov. 20, 2024) (accepting AT&T's application for filing and establishing an automatic grant date of December 21, 2024). The filing of that application was itself delayed by several months while AT&T conducted the performance testing delineated in the Technical Appendix. *Testing Clarification Order*, 40 FCC Rcd at 2017, para. 7. This extended timeline is contrary to a streamlined process.

⁸⁹ *Petition of USTelecom—The Broadband Association for Limited Waiver*, WC Docket No. 17-84 at 2 (filed Feb. 27, 2025), <https://www.fcc.gov/ecfs/document/102272010007405/1> (citing eight Bureau-level Accepted for Filing notices) (USTelecom Waiver Petition).

deployment of next-generation networks, where it is needed.⁹⁰ Creating one straightforward, consolidated rule that applies to all technology transitions discontinuance applications will more effectively accelerate and streamline the technology transitions discontinuance process while still providing adequate protection to consumers than revising the Adequate Replacement Test and the Alternative Options Test.

25. A discontinuance application can rely on the availability of multiple replacement services, particularly when the application encompasses multiple wire centers covering large geographic areas. We decline to adopt Public Knowledge's proposal to require applicants to identify the replacement service they are relying on for each subscriber address.⁹¹ Requiring such a level of granularity would impose an unreasonable burden on carriers and is not always necessary to confirm the availability of the replacement service(s) across the geographic area subject to discontinuance. However, we do find merit in requiring applicants to provide a greater level of detail than simply providing a high-level aggregate list of which replacement services it relies on for any given large geographic area covered by the application.⁹² In order to minimize the burden on carriers while still providing Bureau staff with sufficient information to evaluate the availability of the replacement services and thus the impact on the public convenience and necessity, we afford carriers flexibility in how they break down the available replacement services in the various affected service areas.⁹³ We thus require carriers to identify the available replacement services using the smallest practicable geographic unit depending on the geographic areas implicated by the specific application at issue, which could consist of, among other things, census blocks, census block groups, or ZIP codes. If the information regarding the geographic availability of the replacement service(s) is insufficient or incomplete, the Bureau may require additional information as necessary for its review.

a. Specific Categories of Adequate Replacement Services

26. As delineated above, the consolidated rule we adopt today sets forth five categories of replacement services that an application to discontinue a currently offered retail voice service as part of a technology transition can rely on to be eligible for streamlined processing. We now address each of these categories in turn.

27. The Commission has previously declined to adopt presumptions or exclusions regarding specific types of replacement services, stating that the "public interest analysis demands that applicants provide objective evidence showing a replacement service will provide quality service and access to needed applications and functionalities."⁹⁴ Given the rapid developments in the communications marketplace since the Commission adopted the Adequate Replacement and Alternative Options Tests, we

⁹⁰ See International Center for Law & Econ. Comments at 8-9; see also ICLE Feb. 27, 2026 *Ex Parte* Letter at 1-2.

⁹¹ See Public Knowledge Mar. 13, 2026 *Ex Parte* at 3.

⁹² See *id.*

⁹³ See *id.*

⁹⁴ 2016 *Technology Transitions Order*, 31 FCC Rcd at 8308-09, para. 75; see also *id.* at 8309, para. 75 (further noting that "it is critical that we retain the ability to examine each discontinuance application given the potential for variability in different implementations of the same technology," adding that "[t]he same technology could nonetheless utilize different features, be produced by different vendors with different methodologies, and use different quality measurement techniques, any of which could result in varied service quality and thus lead to potential interoperability issues"); *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5675, para. 35 (declining to replace the Adequate Replacement Test with a simple requirement that a discontinuing carrier show that any fixed or mobile voice service, including interconnected VoIP, is available to qualify for streamlined treatment, stating that such a rule would "fail[] to ensure the availability of a voice replacement service in the community as a condition to obtaining streamlined treatment that sufficiently addresses commenters' concerns . . . about the characteristics of the replacement voice service, and [would] not carry the added benefit of ensuring the availability of multiple alternatives to affected customers, whether present or future").

find the Commission's concerns in 2016 and 2018 have been obviated.⁹⁵ While some commenters contend that replacing the Adequate Replacement Test and the Alternative Options Test with the consolidated rule we adopt today will harm consumers and leave them with substandard alternative connections,⁹⁶ we find that these concerns, too, are unfounded.

28. Since 2018, communications technology has improved, and the marketplace for voice services, including interconnected VoIP and mobile voice, has vastly expanded and spurred the creation of new and innovative communications technologies that benefit consumers and whose usage has far surpassed that of legacy voice service.⁹⁷ Indeed, interconnected VoIP lines have jumped from 58% of all retail fixed voice service connections in 2018 to over 79% by December of 2024.⁹⁸ The number of legacy switched access connections has dropped precipitously since 2018 while the number of fixed broadband connections that support over-the-top interconnected VoIP service rose to 91 residential fixed broadband connections per 100 households with speeds of at least 25 Mbps/3 Mbps by the end of 2024.⁹⁹ These rapid changes in the marketplace demonstrate that consumers now have access to a wide array of voice services provisioned over a variety of technologies. And this disparity between legacy voice service and interconnected VoIP connections will only increase as fiber deployments around the country continue.¹⁰⁰

29. We conclude that, rather than allowing legacy voice services to be discontinued and replaced with inferior options, specifying explicit categories of adequate replacement services will implement a baseline of quality and availability for replacement services in the event of a discontinuance,

⁹⁵ See International Center for Law & Econ. Comments at 10 (stating that the Adequate Replacement and Alternative Options Tests "have failed to achieve their purpose of facilitating technology transitions"); NTCA Comments at 5-6 ("[T]he Commission's previous efforts to ensure consumers obtain the benefits of technology transitions in rapid fashion have not worked as intended."); Telecommunications Industry Ass'n Comments at 3 (stating that the Adequate Replacement and Alternative Options Tests fostered unnecessary procedural complexity by creating a "dual-track regime"); Digital Progress Inst. Comments at 5 (noting that "the Adequate Replacement Test and the Alternative Options Test have not lived up to their promises of accelerating the IP Transition or aiding American consumers").

⁹⁶ See Public Knowledge/CWA Comments at 10-16; NASUCA et al. Reply at 11-14; Rural County Representatives of California (RCRC) Reply at 2-4; CWA Mar. 18, 2026 *Ex Parte* Letter at 2-3; see also Letter from Harold Feld, Senior Vice Pres., Public Knowledge, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-209, 25-208, at 2 (rec. Mar. 16, 2026) (Public Knowledge Mar. 16, 2026 *Ex Parte* Letter).

⁹⁷ See, e.g., International Center for Law & Econ. Comments at 9 (asserting that "the fact that nearly 95% of Americans have at least three mobile-wireless choices, as well as the rapid growth of competitive VoIP, is dispositive evidence of a dynamic and competitive market"); see also *id.* at 10 ("IP-based services are not mere replacements; they are fundamentally different products that offer immense value that TDM cannot, including mobility, data integration, and scalability.").

⁹⁸ See FCC, Office of Economics and Analytics, Voice Telephone Services: Status as of June 30, 2018 at 2-3 (2020), <https://docs.fcc.gov/public/attachments/DOC-362881A1.pdf> (2018 Voice Telephone Services Report); December 2024 Voice Telephone Services Report at 3, Fig. 2.

⁹⁹ FCC, Office of Economics and Analytics, Internet Access Services: Status as of December 31, 2024 at 10 (2026), <https://docs.fcc.gov/public/attachments/DOC-418459A1.pdf> (December 2024 Internet Access Services Report); FCC, Office of Economics and Analytics, Internet Access Services: Status as of June 30, 2018 at 10 (2020), <https://docs.fcc.gov/public/attachments/DOC-366979A1.pdf> (June 2018 Internet Access Services Report); see also Fiber Broadband Ass'n Comments at 4-5; ICLE Feb. 27, 2026 *Ex Parte* Letter at 1 (noting their finding "that between 2014 and 2024, copper last-mile subscriptions fell by 81%" and that "fewer than one percent of Americans now rely exclusively on landlines").

¹⁰⁰ The latest report issued by the Fiber Broadband Association indicates that the number of homes with access to fiber increased by 11% in 2025, despite rising costs associated with rising labor costs, tariffs on imported materials, and inflation. 2025 FBA-Cartesian Fiber Deployment Cost Report at 5, 10-11. According to this report, more than 60% of American homes are now passed by fiber. *Id.* at 5. And the majority of eligible locations in 2025 in the BEAD program will use fiber. *Id.* at 31.

thus ensuring that no consumer receives replacement services that fall beneath a certain level of service.¹⁰¹ Moreover, we find that specifying categories of adequate replacement services will provide greater certainty for carriers regarding the kinds of replacement services that could result in the Commission removing a technology transitions discontinuance application from streamlined processing. We also find that the federal government's interest in having a coherent national policy on these matters outweighs state governments' interests in the types of service that may qualify as adequate replacements for purposes of streamlined discontinuance applications. As observed by the Telecommunications Industry Association, clear guidance on what qualifies as a replacement service will allow providers to know what attributes a potential successor service must possess as they work to improve their community's services.¹⁰² The categories of adequate replacement services we adopt today will furnish providers with sufficient criteria to provide certainty in planning transitions, and ensure that consumers in geographically rural, insular communities, including Tribal communities, the disability community, and other vulnerable communities have access to advanced service options.¹⁰³

30. We conclude that the approach we adopt today will not impede access to critical applications such as home security alarms and medical monitoring devices given the wide array of IP-based devices and over-the-top services that perform similar functions available on the market today.¹⁰⁴ Our streamlined processing rules still require carriers to notify customers of their applications to discontinue service, which must be done no later than the date they file their applications, and provide information regarding replacement service options.¹⁰⁵ Thus, even in instances where a carrier may seek to avail itself of streamlined processing of its discontinuance application, any customers or other interested stakeholders with concerns—including about the technical and interoperability information for a specific replacement service—have the opportunity to file comments or objections to that application with the Commission.¹⁰⁶ Should the Bureau have any concerns about whether a particular request to discontinue service could adversely affect the public interest, it will remove the application from streamlined processing for closer review,¹⁰⁷ thus mitigating the risk that a replacement service of inferior quality or

¹⁰¹ Cf. *Technology Transitions et al.*, WC Docket No. 13-5 et al., Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372, 9378, 9478, paras. 7, 202 (2015) (noting that “[w]ith clear standards in place, carriers will not have to guess as to how they can obtain approval to discontinue TDM services once they are ready to do so” and that the Commission’s “existing case-by-case approach may not provide sufficient guidance as to what constitutes an adequate substitute with regard to cutting-edge technology transitions”). As the Commission noted in the *2016 Technology Transitions Order*, “[t]he Bureau will normally authorize the discontinuance ‘unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience or necessity is otherwise adversely affected.’” 31 FCC Rcd at 8303-04, para. 61 (quoting 47 CFR § 63.71(a)(5)(i)-(ii)). But see Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 2 (“The adequate replacement test required not simply 911 access, but comparable service. Especially with regard to wireless, calls may now drop at a level that renders the service unusable – even if it technically reaches 911 and the PSTN.”).

¹⁰² See Telecommunications Industry Ass’n Comments at 4.

¹⁰³ See *id.*

¹⁰⁴ See, e.g., *Stand-Alone and Single-Service Waiver Order*, 40 FCC Rcd at 2005, para. 11; USTelecom Comments at 20 (noting that to the extent that consumers still rely on the applications the Commission recognized as key, these applications “have been replaced by IP-based and wireless options that do not rely on POTS networks”); Nokia Comments at 4. But see AICC Comments at 10-11 (questioning whether the categories of replacement services specified in the rules we adopt today will be capable of supporting interoperability with key applications and functionalities, primarily home security alarms and medical monitoring devices).

¹⁰⁵ 47 CFR §§ 63.71(a), (c).

¹⁰⁶ See *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5677, para. 37.

¹⁰⁷ See 47 CFR § 63.71(f)(1) (providing that a discontinuance application “shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant unless the

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availability will be imposed upon consumers in the event of a discontinuance.¹⁰⁸ Meanwhile, the streamlined process will more efficiently deliver access to modernized services that better support functions like home security and telehealth, as compared to the legacy networks in place today.¹⁰⁹ And the providers of these devices and services have been on notice for almost a decade that the list of “key applications” contained in the *2016 Technology Transitions Order* as part of the Adequate Replacement Test was temporary. Indeed, under the rules adopted in 2016, the requirement that “replacement services [] be compatible with these devices” sunset in 2025.¹¹⁰

31. We decline to impose on technology transitions discontinuance authorizations a condition that “the replacement service support G.711 codec handshake with RFC 2833 disabled on calls to telephone numbers serving life safety alarm monitoring receivers, end-to-end through all carrier handoffs,” as recommended by AICC.¹¹¹ Introducing a new compatibility requirement for legacy devices, ten years after the *2016 Technology Transitions Order* established a sunset date for compatibility for alarms using low-speed modem devices, would introduce unnecessary delay from the transition to modern, reliable services. Such a requirement is also impracticable if the discontinuing carrier relies on the availability of one or more replacement services offered by third parties. In such instances, the discontinuing carrier has no control over the configuration of the network over which the replacement service is provisioned. However, we encourage carriers to ensure their IP networks are appropriately configured so as to prevent alarm signaling failures.¹¹²

32. *Facilities-based interconnected VoIP service.* We find that facilities-based interconnected VoIP service is an adequate replacement for purposes of determining eligibility for streamlined processing.¹¹³ As the Commission recently found, interconnected VoIP service benefits consumers by providing access to networks that can support advanced protocols and technologies, such as STIR/SHAKEN, which helps protect consumers from illegally spoofed robocalls, and NG911, which will help save lives by ensuring faster call delivery to 911 call centers through improved reliability and

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Commission has notified the applicant that the grant will not be automatically effective”); *see also 2016 Technology Transitions Order*, 31 FCC Rcd at 8309-10, paras. 76, 78.

¹⁰⁸ In light of the opportunities to identify instances where a proposed discontinuance may result in a loss of service to a customer without an adequate replacement, we decline to adopt additional remediation requirements after the approval of the discontinuance. *But see* Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 3-4.

¹⁰⁹ *See, e.g.,* International Center for Law & Econ. Comments at 6 (asserting that IP-based networks are needed for consumer welfare); Rural & Agricultural Council of America Comments at 2 (noting that legacy networks “can no longer support the data-intensive needs of 21st-century rural life or meet consumer demand for reliability, speed, and innovation”).

¹¹⁰ *See 2016 Technology Transitions Order*, 31 FCC Rcd at 8342, 8345, paras. 158-59, 170. *But see* Letter from Sascha Kylau, Co-Chair, Alarm Industry Communications Committee (AICC), to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-209, 25-208, at 4 (filed Mar. 19, 2026) (AICC Mar. 19, 2026 *Ex Parte* Letter) (asserting that the 2025 sunset of the key application requirements established in the *2016 Technology Transitions Order* “does not address the five million installed [alarm] panels that use dialer-based protocols and will continue to do so during the transition”).

¹¹¹ AICC Mar. 19, 2026 *Ex Parte* Letter at 5-6.

¹¹² *Id.* at 2.

¹¹³ There is also evidence that facilities-based interconnected VoIP service compares favorably in price on average to legacy voice services. *See, e.g., Stand-Alone and Single-Service Waiver Order*, 40 FCC Rcd at 2003, para. 5 n.28 (citing USTelecom Waiver Petition at 11-13 (indicating that facilities-based voice service is available from certain providers through unlimited voice/text mobile plans at advertised prices of \$20 per month, or for \$5 per month more, customers can purchase unlimited data, and that depending on where customers live, they can purchase bundled voice and broadband options through providers for \$45 or \$50 per month as compared to, e.g., legacy voice prices of \$45, \$54, and \$87 per month)); USTelecom Comments at 12-13; Fiber Broadband Ass’n Comments at 5.

resiliency, enhanced information about the caller's location and the nature of the emergency, and the ability to receive additional multimedia, including video.¹¹⁴

33. The only specific opposition in the record does not dispute the quality of facilities-based interconnected VoIP service but instead raises competition concerns.¹¹⁵ We find AARP's claim that there is not sufficient competition in the interconnected VoIP market to be overstated in light of the current state of competition and our continuing ability to remove applications from streamlined processing should the need arise.¹¹⁶ We agree that in the context of wireline voice services, the availability of service from another provider may provide competitive benefits for consumers.¹¹⁷ As of December 2023, at least 95% of the U.S. population had 4G LTE coverage from at least three service providers.¹¹⁸ And to the extent that the affected customers will have access to a facilities-based interconnected VoIP service, they will have the option to purchase broadband access, giving them access to a multitude of communications applications, including over-the-top VoIP service.¹¹⁹ Moreover, the Commission's standards for streamlined and non-streamlined processing of discontinuance applications continue to apply. If the Bureau has concerns regarding whether it is in the public interest to grant a particular request to discontinue service—including relevant considerations of competition in a given service area—it can remove that application from streamlined processing and engage in a further review.¹²⁰ Other than AARP, no commenters weighed in specifically on the appropriateness of facilities-based interconnected VoIP service as an adequate replacement for purposes of eligibility for streamlined processing.

¹¹⁴ *Stand-Alone and Single-Service Waiver Order*, 40 FCC Rcd at 2006, para. 12 n.59. Interconnected VoIP providers must meet applicable E911 service requirements as a condition of providing service to consumers and must support NG911 service upon the request of a 911 Authority. 47 CFR §§ 9.11, 9.28 *et seq.*

¹¹⁵ NASUCA et al. broadly oppose all of the specific categories of replacement services proposed in the *Network and Services Modernization Notice* but do not raise arguments specific to facilities-based interconnected VoIP services. See NASUCA et al. Reply at 12-14. Other commenters object to our finding that VoIP need not be offered on a stand-alone basis to be considered an adequate replacement. See NTCA Comments at 6; Public Knowledge/CWA Comments at 17-18; Michigan PSC Reply at 5. We address those arguments below. See *infra* Section III.B.1.b.

¹¹⁶ AARP Comments at 12.

¹¹⁷ See, e.g., *United States Telecom Ass'n v. FCC*, 359 F.3d 554, 582 (D.C. Cir. 2004) (agreeing with the Commission that “robust intermodal competition from cable providers—the existence of which is supported by very strong record evidence, including cable’s maintenance of a broadband market share on the order of 60% [citation omitted] means that even if all CLECs were driven from the broadband market, mass market consumers will still have the benefits of competition between cable providers and ILECs”); *Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, WC Docket No. 19-308, Report and Order, 35 FCC Rcd 12425, 12457, para. 60 (2020) (finding that “[i]ntermodal competition in the form of cable competition alone is enough to establish the existence of sufficient competition even in the absence of UNEs”); see also *Business Data Services in an Internet Protocol Environment et al.*, WC Docket No. 16-143 et al., Report and Order, 32 FCC Rcd 3459, 3515, para. 121 (2017) (“We reject some commenters’ characterization of the Qwest Phoenix Order as a blanket finding by the Commission that two competitors are insufficient to constrain incumbent LEC pricing. Although the Commission raised concerns about the competitive nature of a duopoly in that order, it did not categorically reject the possibility that a market with two competitors could represent sufficient competition to restrain supracompetitive pricing by providers. To the contrary, it specifically recognized that ‘under certain conditions a duopoly will yield a competitive outcome.’”).

¹¹⁸ See *Communications Marketplace Report*, GN Docket No. 24-119, 2024 Communications Marketplace Report, 39 FCC Rcd 14116, 14160, para. 56 (2024) (*2024 Communications Marketplace Report*).

¹¹⁹ See 47 CFR § 9.3 (defining interconnected VoIP service as a service that (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user’s location; (3) requires internet protocol-compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network).

¹²⁰ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8309-10, paras. 76, 78.

34. *Facilities-based mobile wireless service.* We find facilities-based¹²¹ mobile wireless service operating at speeds of at least 5/1 Mbps, as reflected on the National Broadband Map,¹²² to be an adequate replacement for purposes of eligibility for streamlined processing.¹²³ Mobile telephony (mobile voice) service is a real-time, two-way voice service that is interconnected with the public switched network using an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls.¹²⁴ As of December 2024, there were approximately 390.9 million mobile voice subscriptions in the United States;¹²⁵ and according to preliminary data from the Centers for Disease Control and Prevention, as of December 2023, approximately 76% of adults were living in and relying on a wireless-only household, with adults in lower age-groups more likely to live in wireless-only households.¹²⁶ As the market has thus spoken on the adequacy of mobile wireless service, we disagree with Public Knowledge's argument that a facilities-based mobile wireless service is not a suitable replacement for a wireline voice service in the context of a section 214(a) discontinuance review.¹²⁷ As the Commission recently noted, "consumers continue to rely more heavily on mobile wireless services," and that these services have thus "become an essential part of everyday life."¹²⁸

35. We decline to adopt additional verification requirements for the availability of mobile wireless service beyond the data reflected in the National Broadband Map, as suggested by some commenters.¹²⁹ While NTCA contends that despite broadband mapping improvement over time, it

¹²¹ See *supra* note 78.

¹²² See 47 CFR § 1.7004(c)(3) (noting the parameters on which mobile providers must base their coverage maps).

¹²³ See, e.g., NTCA Comments at 5 (supporting our proposal to consider mobile wireless service an adequate replacement service for purposes of eligibility for streamlined processing). The 5/1 Mbps broadband speed is a proxy for services with sufficient quality to be adequate replacement services.

¹²⁴ 47 CFR § 20.3; see also *2024 Communications Marketplace Report*, 39 FCC Rcd at 14233, para. 155; FCC, *FCC Form 477 Local Telephone Competition and Broadband Reporting Instructions* at 9 (Jan. 2, 2023), <https://us-fcc.app.box.com/v/Form477Instructions>.

¹²⁵ See December 2024 Voice Telephone Services Report at 13, tbl. 4.

¹²⁶ *2024 Communications Marketplace Report*, 39 FCC Rcd at 14234, para. 158 (citing U.S. Department of Health and Human Services, National Center for Health Statistics, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2023* at 2 (June 2024), <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202406.pdf> (NCHS 2024 Wireless Substitution Report)).

¹²⁷ See Public Knowledge/CWA Comments at 14 (asserting that "facilities-based mobile wireless is not a suitable replacement for a wireline voice service" in light of such things as line-of-sight obstructions, congestion that results in degradation of service during emergencies, and carrier exaggeration in their coverage maps); see also Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 2; NTCA Mar. 13, 2026 *Ex Parte* Letter at 2; NASUCA et al. Reply at 12-14 (opposing all of the specific categories of replacement services proposed in the *Network and Services Modernization Notice*). In addition to these objections, multiple parties filed comments asserting concerns about the potential negative health impact of increased electromagnetic radiation as a result of the retirement of legacy copper networks and the increased use of wireless alternatives. See generally, e.g., Wired Broadband, Inc. et al. Comments; Physicians for Safe Technology Comments. Commission-regulated equipment is subject to our rules limiting human exposure to radio frequency (RF) emissions from such equipment, as applicable. See 47 CFR §§ 1.1307(b), 1.1310. The Commission's rules limiting human exposure to RF emissions are outside the scope of this proceeding.

¹²⁸ *2024 Communications Marketplace Report*, 39 FCC Rcd at 14159, para. 54. As of December 31, 2024, we note that 4G LTE is available at 99% of locations and 5G-NR at speeds of at least 7/1 Mbps is available at 96% of locations nationwide. FCC, Office of Economics and Analytics, *Internet Access Services: Status as of December 31, 2024* at 16, fig. 10 (2026), <https://docs.fcc.gov/public/attachments/DOC-418459A1.pdf> (December 2024 Internet Access Services Report).

¹²⁹ See AARP Comments at 13 ("AARP cautions against relying solely on the data that service providers report to the FCC as it assesses the availability of alternative services."); NTCA Comments at 6 (asserting that "the Commission should require additional verification beyond baseline mapping data before accepting mobile service as

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“remains unreliable on a granular level in many rural areas” and thus that the Commission should proceed with caution,¹³⁰ we find that there are already sufficient safeguards in place to account for discrepancies, including in rural areas, without the need to adopt more stringent, mobile-specific verification requirements at this time.¹³¹ Indeed, affected customers faced with a planned technology transitions discontinuance relying on the availability of a facilities-based mobile wireless service, as well as other interested stakeholders such as public interest groups and state public utility commissions, may also file objections and seek to have the Bureau remove the application from streamlined processing for further review of the availability of mobile wireless service in the affected service area. Given the existence of these guardrails, we find it unnecessary and redundant to implement additional mobile-specific verification requirements as part of this current rulemaking. Such a requirement would negate the primary purpose of this rulemaking—to make technology transitions more efficient and encourage the deployment of advanced, next-generation networks—while providing no material benefit that is not already available to consumers via the two review mechanisms enumerated above.

36. *Voice service funded by Commission modernized high-cost mechanisms.* We find facilities-based voice services provided via funding from one of the Commission’s modernized high-cost support mechanisms to be an adequate replacement for the purposes of eligibility for streamlined processing. We exclude from the purview of this rule any legacy high-cost support mechanisms that do not contain the same deployment reporting obligations as the modernized mechanisms. The Commission began modernizing its universal service high-cost support mechanisms in 2011 with the *USF/ICC Transformation Order*,¹³² which established the Connect America Fund. In that *Order*, the Commission required support recipients to offer broadband service in addition to the supported “voice telephony” service.¹³³ In the years since, the Commission has established additional mechanisms to support voice-

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sufficient replacement service”); NTCA Reply at 2-4; NTCA Mar. 13, 2026 *Ex Parte* Letter at 2; *see also* AARP Comments at 6 (referring to rural communities where “high-speed internet networks have not yet been deployed and wireless service is unreliable”).

¹³⁰ NTCA Comments at 7; *see also* CWA Mar. 18, 2026 *Ex Parte* Letter at 2.

¹³¹ *See, e.g.*, Wireless Infrastructure Ass’n Comments at 3-4 (describing how cellular technologies and mapping techniques have improved over time). As compared to the initial months following the launch of the National Broadband Map, the data reflected in the map has become much less susceptible to correction through the challenge process, resulting in a more stable dataset to inform the agency’s work. Based on internal staff analysis, the total number of challenges to the National Broadband Map in 2025 as of June 30 equaled one-half of one percent of the total number of challenges filed in the same period in 2022. And approximately nine percent of the challenges filed in that period in 2025 were conceded or upheld, whereas almost 81 percent of the challenges filed during the equivalent time period in 2022 were conceded or upheld. Nevertheless, if consumers or stakeholders have concerns regarding a provider’s reported mobile coverage data as reflected on the National Broadband Map, they may file a mapping challenge and initiate a review of the reported coverage data in the specified location. To file a challenge to the availability data in the National Broadband Map, go to <https://broadbandmap.fcc.gov/home>, type the relevant location into the search bar, select the ‘Mobile Broadband’ tab, and click on the ‘Mobile Challenge’ link.

¹³² *See generally* *USF/ICC Transformation Order*, 26 FCC Rcd 17663.

¹³³ *See id.* at 17695, para. 87, 17696-702, paras. 91-105, 17691-92, paras. 75-78 (establishing the Connect America Fund (CAF) and requiring recipients of CAF Phase I support to offer broadband service with speeds of at least 4/1 Mbps in most areas, with latency sufficiently low to enable the use of real-time communications (defining “voice telephony” as the supported service and describing its core functionalities). The Commission requires recipients of CAF Phase II support “to offer broadband service with latency suitable for real-time applications, including Voice over Internet Protocol [VoIP], and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas.” 47 CFR § 54.309(a); *see also id.* § 54.309(a)(2)(i)-(v) (setting forth speed and latency requirements for different performance tiers); *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5956-63, paras. 14-37 (2016) (*CAF Phase II Order*).

and broadband-capable networks.¹³⁴ Recipients of these mechanisms must offer voice telephony at rates that are reasonably comparable to urban rates and must report compliance with their deployment obligations showing where they have built out the required facilities and offer voice and broadband service.¹³⁵ They also must provide access to emergency services via 911 and provide E911 capabilities wherever local governments have implemented those systems.¹³⁶ No commenters disputed the appropriateness of voice service provided via funding from one of the Commission's modernized high-cost support mechanisms as an adequate replacement for purposes of eligibility for streamlined processing, and we find it reasonable to accept such service as an adequate replacement.

37. *Carrier's already available alternative voice service.* We find that, where a carrier has already made available its own alternative voice service throughout the affected service area, the service is an adequate replacement for the service being discontinued in that area for purposes of eligibility for streamlined processing if that service has been available for at least the immediately preceding 60 days and the carrier certifies that based on the results of its own internal network testing routinely undertaken to measure performance in rolling out a new product or service, the service offers substantially similar levels of network performance and availability¹³⁷—for example, that it is provisioned over a network with speeds of at least 25/3 Mbps and that it offers mouth-to-ear latency of no more than 200 ms¹³⁸—and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network or any successor network that utilizes numbers issued pursuant to the North American Numbering Plan.¹³⁹ We find that these standards better accomplish our goal of encouraging the development of modern communications service offerings than the proposed standards on which we sought comment—i.e., that the replacement service in question must have been available for a minimum time period of the immediately preceding six months throughout the affected service area, and that at least 50 percent of the carrier's total voice service customer base in the

¹³⁴ See 47 CFR § 54.309(a); *see also id.* § 54.309(a)(2)(i)-(v) (setting forth speed and latency requirements for different performance tiers); *CAF Phase II Order*, 31 FCC Rcd at 5956-63, paras. 14-37 (requiring recipients of CAF Phase II support “to offer broadband service with latency suitable for real-time applications, including Voice over Internet Protocol [VoIP], and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas”); *Rural Digital Opportunity Fund et al.*, WC Docket Nos. 19-126 et al., Report and Order, 35 FCC Rcd 686, 689, para. 3 (2020); *Rural Digital Opportunity Fund*; *Connect America Fund*, WC Docket Nos. 19-126, 10-90, Report and Order, 35 FCC Rcd 686, 703, paras. 32-33 (2020) (increasing the speed for the minimum performance tier for the Rural Digital Opportunity Fund to 25 Mbps/3 Mbps and setting a high latency limit under which 95% or more of all peak period measurements of network round trip latency are at or below 750 milliseconds and a demonstration of a score of 4 or higher using the Mean Opinion Score with respect to voice performance); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 38 FCC Rcd 7040, 7057-58, para. 37 (2023) (requiring “deployment obligations requiring every Enhanced A-CAM recipient to deploy, by the end of 2028, 100/20 Mbps or faster broadband service, with latency of 100 milliseconds or less, to all Enhanced A-CAM required locations in their service areas” to “maximize compatibility with the Infrastructure Act and BEAD Program”); 47 CFR § 54.311.

¹³⁵ See 47 CFR § 54.316(c); *USF/ICC Transformation Order*, 26 FCC Rcd at 17693, para. 81.

¹³⁶ 47 CFR § 54.101(a) and (b); *see also USF/ICC Transformation Order*, 26 FCC Rcd at 17693, para. 78.

¹³⁷ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8314, para. 91; *Testing Clarification Order*, 40 FCC Rcd 2014; *see also* USTelecom Mar. 19, 2026 *Ex Parte* Letter at 7.

¹³⁸ See, e.g., *2016 Technology Transitions Order*, 31 FCC Rcd at 8318-19, para. 99 and n.265; *CAF Phase II Order*, 31 FCC Rcd at 5956-63, paras. 14-37.

¹³⁹ See Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 3 (raising concern that a potential replacement service might not be able to interconnect with the PSTN).

affected service area must be subscribed to the alternative voice service¹⁴⁰—without undue delay while still ensuring that consumers have available to them an adequate replacement service.¹⁴¹ Finally, the service must provide access to 911 and comply fully with our 911 requirements applicable to that service.¹⁴² We require carriers to describe any such replacement service and to certify that it meets these temporal, subscriber percentage, and public safety requirements. As a whole, we find that these requirements adequately balance the need to ensure a service is stable and satisfies the Commission’s goal of ensuring that carriers can rapidly transition their resources and investments toward next-generation services. No commenters disputed the appropriateness of such service as an adequate replacement for purposes of eligibility for streamlined processing, and we find it reasonable to accept such service as an adequate replacement.

38. *Widely available alternative voice service.* We find a widely available alternative voice service offered by a third party that is available in all locations throughout an affected service area and provides access to 911 and complies fully with applicable 911 requirements, to be an adequate replacement for purposes of being eligible for streamlined processing if the carrier certifies that based on publicly available information, the service offers substantially similar levels of network performance and availability¹⁴³ and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network or any successor network that utilizes numbers issued pursuant to the North American Numbering Plan.¹⁴⁴ Permitting a discontinuing carrier to rely on the availability of an adequate replacement service offered by a third party to support a technology transitions discontinuance application and to rely on publicly available information to make the requisite showing is consistent with previous Commission action.¹⁴⁵ We find that this flexible approach will minimize burdens on carriers while safeguarding consumers’ need for an adequate replacement service.

39. Permitting third-party alternative voice service with access to 911 and substantially similar levels of network performance and availability as the service being discontinued to serve as a replacement service will enable innovative new service offerings, such as low-earth orbit satellite-based services, to qualify as replacement services without requiring the Commission to engage in additional time-consuming rulemaking proceedings and is consistent with both our standards applicable to voice services funded by our modernized high-cost universal service support mechanisms discussed earlier in this section and the standards the Commission previously adopted in connection with the Adequate Replacement Test.¹⁴⁶

¹⁴⁰ See *Network and Services Modernization Notice*, 40 FCC Rcd at 5344, para. 33. This analysis is not limited to residential subscribers alone, and should include enterprise subscribers.

¹⁴¹ See USTelecom Mar. 19, 2026 *Ex Parte* Letter at 6-7.

¹⁴² See 47 CFR pt. 9.

¹⁴³ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8314, para. 91; Testing Clarification Order, 40 FCC Rcd 2014; see also USTelecom Mar. 19, 2026 *Ex Parte* Letter at 6-7.

¹⁴⁴ See Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 3.

¹⁴⁵ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8311-12, paras. 84-86

¹⁴⁶ See USTelecom Comments at 11 (in the context of proposing conditional forbearance from section 214 discontinuance obligations, asserting that “any service offering with higher download and upload speeds and less than 200 ms mouth-to-ear latency enables a more-than-sufficient alternative to legacy voice service”); Fiber Broadband Ass’n Reply at 2-3 & n.8 (in the context of supporting USTelecom’s conditional forbearance proposal, agreeing with the proposed “technical standard for what constitutes a suitable replacement voice service”—i.e., voice service “provided over any commercially available broadband network that offers less than 200 ms mouth-to-ear latency”). But see NTCA Comments at 7-8 (asserting that this category of replacement service requires a fact-intensive review); Public Knowledge/CWA Comments at 13 (opposing all of the specific categories of replacement

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40. We find that the standards we adopt for eligibility of a widely available alternative voice service for streamlined processing obviate NTCA's concerns regarding that the proposed widely adopted alternative voice service category as set forth in the *Network and Services Modernization Notice* is a "highly detailed and fact-specific view of a particular market/geographic area," and that such a "fact-specific inquiry is more suited to a waiver proceeding under which the Commission can analyze data brought forth by a petitioning provider as opposed to utilizing a certification that fails to analyze such data across the market in question."¹⁴⁷ We further find that these standards address the concerns raised by Public Knowledge after release of the public draft of this Order that this replacement service category would not afford sufficient safeguards for consumers and thus might incentivize discontinuing carriers to rely on third-party services for which they do not need to make the showings required when relying on the carrier's own already-available alternative voice service.¹⁴⁸ The standards we adopt today for this alternative service option provide sufficient backstops to provide predictability and protect consumers. Moreover, as we have noted above, our streamlined processing rules still require carriers to notify customers of their applications to discontinue service and provide information regarding replacement service options.¹⁴⁹ Customers with concerns about the adequacy of the purportedly "widely available" alternative service, as well as other interested parties, can file comments or objections to an application for streamlined processing with the Commission,¹⁵⁰ and the Bureau has the discretion to remove the application from streamlined processing for further review, including the ability to request supplemental information from the applicant.¹⁵¹ We further expressly delegate to the Bureau the authority to remove from streamlined processing an application relying on this category of replacement service if the service has little to no customers. Bureau staff may consider the extent to which the widely available service has been adopted outside the affected service area. We find that these safeguards address commenter concerns raised in the record¹⁵² and obviate the need for staff to conduct such time-consuming reviews of every application filed relying on this category of replacement service.

b. Voice Service Need Not be Offered on a Stand-alone Basis to be Considered an Adequate Replacement

41. We affirm the Bureau's finding in the *Stand-Alone and Single-Service Waiver Order* that VoIP need not be offered on a stand-alone basis to be considered an adequate replacement¹⁵³ and thus decline to impose such a requirement in the consolidated technology transitions rule we adopt today.¹⁵⁴ In

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services proposed in the *Network and Services Modernization Notice*); NASUCA et al. Reply at 12-14 (opposing all of the specific categories of replacement services proposed in the *Network and Services Modernization Notice*).

¹⁴⁷ NTCA Comments at 7-8.

¹⁴⁸ Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 2-3.

¹⁴⁹ 47 CFR § 63.71(a).

¹⁵⁰ See *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5677, para. 37.

¹⁵¹ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8309-10, paras. 76, 78.

¹⁵² See, e.g., Public Knowledge/CWA Comments at 13-14 ("Under the language of the NPRM, a carrier could 'make available' a service of poor quality and – without regard to any customer experience, or even use by a single customer – certify it as a replacement service."); Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 2-3.

¹⁵³ *Stand-Alone and Single-Service Waiver Order*, 40 FCC Rcd at 2002-03, para. 6.

¹⁵⁴ See AARP Comments at 3, 12 (urging the Commission to require that for VoIP to be considered an adequate replacement, it must be offered on an unbundled basis so that those seeking voice-only services need not purchase bundled packages that may include broadband and/or video services and which may be more expensive). We note that while bundled services that include VoIP may still be considered an adequate replacement, broadband-only service would *not* qualify under this rule as an acceptable replacement service. Broadband provides fundamentally different functionality from traditional voice telephony, and while it does enable users to engage in activities such as email and messaging, it is not an adequate replacement for voice telephony service for the purposes of our

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doing so, we conclude that the record in this proceeding supports both the Bureau's finding in that *Order* that the elimination of the stand-alone requirement is warranted due to rapid developments in the communications marketplace since the adoption of the Alternative Options Test and extending that finding to apply to each of the categories of replacement service delineated in the consolidated technology transitions discontinuance rule we adopt today.¹⁵⁵

42. Since the Commission adopted its Alternative Options Test with its stand-alone requirement, the technologies associated with voice services have improved and the marketplace for voice services, such as interconnected VoIP and mobile voice, has vastly expanded and spurred the creation of new and innovative communications technologies and bundled service offerings that benefit consumers.¹⁵⁶ While interconnected VoIP lines accounted for just 60% of all wireline retail voice service connections in December 2018,¹⁵⁷ that number had already risen to almost 80% by the end of 2024.¹⁵⁸ The number of legacy switched access connections has also dropped precipitously since the adoption of the Alternative Options Test, and the number of fixed broadband connections that support over-the-top interconnected VoIP service has risen from 61 residential fixed broadband connections per 100 households with speeds of at least 25 Mbps/3 Mbps in 2018 to 91 by December 2024.¹⁵⁹

43. The proliferation of interconnected VoIP providers has “brought advanced communications services to the marketplace to the benefit of consumers,”¹⁶⁰ and ensures that strong competition for IP-based voice service exists in every locality with broadband access. As of December 2023, more than three-quarters of adults in this country had gone fully wireless for their voice service.¹⁶¹ As the Commission recently noted, “there are many other types of telecommunications offerings, including apps running solely on data networks that are nearly indistinguishable to the consumer from the core communications functionality of the public switched telephone network . . . [that] combine the benefits of voice, video, and text communications into one data-based service,”¹⁶² obviating the need or desire for stand-alone voice service. These rapid changes in the marketplace have granted consumers access to a wide array of voice services with many capabilities, and in response few providers now offer stand-alone interconnected VoIP service.¹⁶³ Indeed, as the Commission recently noted, “there are many other types of telecommunications offerings, including apps running solely on data networks that are nearly indistinguishable to the consumer from the core communications functionality of the public switched telephone network . . . [that] combine the benefits of voice, video, and text communications into

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discontinuance rules. With that said, broadband facilities may be used to provision a qualifying voice replacement service.

¹⁵⁵ *Stand-Alone and Single-Service Waiver Order*, 40 FCC Rcd at 2003, para. 9.

¹⁵⁶ *See id.* at 2003-04, para. 9; USTelecom Waiver Petition at 2 & n.3.

¹⁵⁷ *See* 2018 Voice Telephone Services Report at 2-3.

¹⁵⁸ *See* FCC, Office of Economics and Analytics, Voice Telephone Services: Status as of December 31, 2024 at 2-3, Fig. 2 (2025), <https://docs.fcc.gov/public/attachments/DOC-418460A1.pdf> (December 2024 Voice Telephone Services Report).

¹⁵⁹ December 2024 Internet Access Services Report at 10; June 2018 Internet Access Services Report at 10.

¹⁶⁰ *Numbering Policies for Modern Communications et al.*, WC Docket Nos. 13-97 et al., Second Report and Order and Second Further Notice of Proposed Rulemaking, 38 FCC Rcd 8951, 8952, para. 1 (2023).

¹⁶¹ *2024 Communications Marketplace Report*, 39 FCC Rcd at 14234, para. 158 (noting that “preliminary data from the Centers for Disease Control and Prevention (CDC), as of December 2023, approximately 76% of adults lived in a wireless-only household in late 2023, with adults in lower age-groups more likely to live in wireless-only households”); *see also* Fiber Broadband Ass’n Comments at 5; WTA Comments at 3.

¹⁶² *2024 Communications Marketplace Report*, 39 FCC Rcd at 14232, para. 154.

¹⁶³ USTelecom Waiver Petition at 7-8.

one data-based service.”¹⁶⁴

44. We disagree with commenters who contend that consumers must retain access to stand-alone voice service separate from a bundled broadband service simply to obtain and maintain access to voice communications.¹⁶⁵ The fact that technologically advanced VoIP services may only be available in certain areas and from certain providers bundled with broadband, text messaging, or some other service should not preclude it being considered an adequate replacement if the price the consumer would pay for the bundle is comparable to the price the consumer pays for the legacy voice service or is otherwise affordable.¹⁶⁶

45. We agree with the Bureau that the Commission’s findings in the *2024 Communications Marketplace Report* about the variety of services now available to consumers obviates the need for stand-alone voice service.¹⁶⁷ We require applicants to provide pricing information so that the Bureau can compare the price of the legacy voice service to post-promotional and non-sale pricing of any bundled options carriers might rely on as a replacement service in order to consider the likelihood of any unreasonable price increases for consumers.¹⁶⁸ When it adopted the Adequate Replacement Test, the Commission required that a technology transitions discontinuance application include, among other things, the information set forth in section 63.505.¹⁶⁹ Among other things, section 63.505 requires that a discontinuance application include the “difference, if any, between present charges to the public and charges for the service to be substituted.”¹⁷⁰ We conclude that maintaining the requirement to provide this information will ensure that Bureau staff have this important information when evaluating such applications.

46. Carriers are still required under our streamlined processing rules to notify their customers of their applications to discontinue service and provide information regarding replacement service options and the customers’ ability to object to the proposed discontinuance, and we note that this broad requirement encompasses particular demographics raised in the record, such as customers in rural areas or older customers.¹⁷¹ While an application may be eligible for streamlined treatment under the rule we adopt today by the applicant demonstrating the availability of its own or another voice service throughout the affected area that may only be available on a bundled basis, customers with concerns about the

¹⁶⁴ *2024 Communications Marketplace Report*, 39 FCC Rcd at 14232, para. 154.

¹⁶⁵ See NTCA Comments at 6; Public Knowledge/CWA Comments at 17-18; Michigan PSC Reply at 5.

¹⁶⁶ *2016 Technology Transitions Order*, 31 FCC Rcd at 8307, para. 71 (noting that the four factors considered by the Commission, aside from the adequacy of the replacement service, when evaluating discontinuance applications “offer a traditional balancing of the financial and competitive needs of industry against the values of consumer affordability and expectations”); *id.* at 8345, para. 171 (noting that “affordability already plays an important role in our pre-existing evaluation process”); *id.* at 8346, para. 174; see also USTelecom Waiver Petition at 2 n.4 (“Many large providers do not enable consumers to purchase voice service on a stand-alone basis.”).

¹⁶⁷ *Stand-Alone and Single-Service Waiver Order*, 40 FCC Rcd at 2003, para. 9.

¹⁶⁸ See *infra* Section III.B.6 (discussing the incorporation of application content requirements in section 63.71(c)(5)); see also AARP Comments at 11 (urging “the Commission to consider . . . ‘increased charges for alternative services’”); Public Knowledge Mar. 13, 2026 Ex Parte Letter at 4-5 (asking that the Commission “prevent carriers from engaging in a ‘bait and switch,’ such as providing introductory low rates it reports on its application, only to raise the rates after the discontinuance” or “comparing seasonal or infrequent sale prices [for third-party replacement services] with the carrier’s standard subscription fee”).

¹⁶⁹ 47 CFR § 63.602(a)(1); see also *Technology Transitions Order*, 31 FCC Rcd at 8348, para. 176; see also *id.* at 8345, para. 171 (noting that “affordability already plays an important role in [the Commission’s] pre-existing evaluation process”).

¹⁷⁰ 47 CFR § 63.505(e).

¹⁷¹ *Id.* § 63.71(a); see also AARP Reply at 9.

adequacy or affordability of a replacement service, as well as other interested parties, may file comments or objections to that carrier's discontinuance application with the Commission.¹⁷²

47. The Commission's standards for processing streamlined and non-streamlined applications for discontinuance continue to apply regardless of whether the replacement service is available on a stand-alone or bundled basis. If the Bureau has concerns regarding whether it is in the public interest to grant a particular request to discontinue service, it can remove that application from streamlined processing and engage in a further review,¹⁷³ which may include looking at whether bundled services that include interconnected VoIP could result in raised consumer prices or reduced voice service quality. With the added safeguard of the requirement that an application disclose pricing differential information, we thus reject AARP's request and affirm the finding in the *Stand-Alone and Single-Service Waiver Order* that interconnected VoIP need not be offered on a stand-alone basis to be considered an adequate replacement.¹⁷⁴

c. Access to Emergency Services

48. We find that the rules we adopt today are sufficient to safeguard access to emergency services. In the record, several commenters urged the Commission to take steps to ensure that any revisions to our discontinuance rules not reduce or otherwise impair access to 911 service to any part of the affected community.¹⁷⁵ We agree with these commenters that modernizing our discontinuance rules cannot come at the expense of legitimate safety concerns and that consumers must be able to rely on swift and accurate access to emergency services. We add certain safeguards for discontinuances related to trunk lines, 911 TDM circuits, TDM private line circuits, and transport services that provide 911 connectivity as one way to address this concern, as explained below.¹⁷⁶ Providers of voice service remain subject to our 911 and outage reporting requirements,¹⁷⁷ and it is our expectation that the speedy implementation of NG911 will greatly improve the success, reliability, and accessibility of 911.¹⁷⁸ At the same time, we must facilitate the transition away from deteriorating, outdated networks that could ultimately jeopardize access to emergency services.

¹⁷² See *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5677, 5679-80, paras. 37, 42; see also NTCA Comments at 6 (stating that any "replacement service assessment under the consolidated rule must preserve the availability of standalone voice options at reasonable rates"), Public Knowledge/CWA Comments at 17-18 (raising concerns about the relative cost of bundled services that include facilities-based interconnected VoIP service); Michigan PSC Reply at 5 (citing the language from NTCA's comments regarding reasonable rates). More generally, when evaluating discontinuance applications, the Bureau will continue to evaluate the cost of alternative services in a manner appropriate to the circumstances, and we therefore need not go further in adopting specific requirements governing pricing or pricing information as some have proposed. See, e.g., Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 4-5 (expressing concern about reliance on infrequently offered prices); NTCA Mar. 13, 2026 *Ex Parte* Letter at 2.

¹⁷³ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8309-10, paras. 76, 78.

¹⁷⁴ *Stand-Alone and Single-Service Waiver Order*, 40 FCC Rcd at 2002-03, para. 6.

¹⁷⁵ See generally AICC Comments; Bandwidth Comments; Intrado Comments; see also AARP Comments at 3-4; NENA Comments at 2; Pennsylvania PUC Comments at 6-7; Public Knowledge/CWA Comments at 8-9; AARP Reply Comments at 3-7; Michigan PSC Reply Comments at 2-4; NTCA Reply Comments at 5-6.

¹⁷⁶ See *infra* Section III.B.3; Appx. A, § 63.71(c)(7).

¹⁷⁷ See 47 CFR §§ 4.3-4.18, pt. 9.

¹⁷⁸ See FCC, *Next Generation 911 (NG911) Services*, <https://www.fcc.gov/policy-and-licensing-division/911-services/NG911> (last visited Mar. 20, 2026) ("In the transition to NG911, state and local 911 authorities are replacing legacy 911 technology with IP-based infrastructure that will support new 911 capabilities, including text, video, and data, and that will improve 911 interoperability, security, and system resilience."); 911.gov, *Next Generation 911*, <https://www.911.gov/issues/ng911/> (last visited Mar. 20, 2026).

49. While some commenters are concerned that replacing plain old telephone service (POTS) provided over copper lines with IP-based service over fiber, wireless, or satellite networks could jeopardize communications during emergencies,¹⁷⁹ the experiences of rural commenters demonstrate that such concerns, while certainly well intentioned, may be misplaced.¹⁸⁰ Deteriorating copper is more susceptible to adverse weather events than fiber¹⁸¹ and requires more time to restore than alternative services like mobile wireless.¹⁸² And alternative voice services can still work during outages or emergencies.¹⁸³ For example, mobile wireless services are designed to work during cellular network outages through built-in redundancies such as cellular failover and satellite connectivity.¹⁸⁴ Additionally,

¹⁷⁹ See, e.g., National Center for Frontier Communities Comments; NENA Comments at 2; Public Knowledge/CWA Comments at 8-9; AARP Reply at 3-7; Michigan PSC Reply at 2-4; NTCA Reply at 5-6.

¹⁸⁰ See, e.g., Rural Agricultural Council of America Comments at 2 (“Americans in rural and agricultural communities rely just as much—if not more—on robust, redundant network options for public safety. First responders are already migrating away from legacy copper, adopting fiber, VoIP, and wireless solutions that provide improved reliability and advanced 911 features such as location data, texts to 911, and multimedia capabilities. Today, over 90% of 911 calls are made from mobile devices and these modern platforms offer superior resilience during outages, floods, or emergencies.”); see also 2025 FBA-Cartesian Fiber Deployment Cost Report at 31 (asserting that BEAD “projects will bring fiber to all corners of the US and connect more rural communities than ever before” and that “sentiment around fiber as a resilient, long-term broadband technology remains strong”).

¹⁸¹ See, e.g., USTelecom Comments at 17-18; International Center for Law & Economics Comments at 6 (noting that copper networks “are increasingly expensive to operate, consume substantial amounts of power, and are prone to weather-related damage and frequent outages”); Mark J. Fletcher Comments at 2 (asserting that copper “is deteriorating in the field” and that fiber “is functionally ageless,” and “doesn’t corrode, fatigue, or degrade the way copper does”); Rural Agricultural Council of America Comments at 2.

¹⁸² See USTelecom Comments at 17; *Why Does Fiber Internet Perform Better During Bad Weather?*, Hunter Communications (Mar. 21, 2025), <https://hunterfiber.com/fiber-internet-performs-better-during-bad-weather/#:~:text=Unlike%20copper%20wires%2C%20which%20are%20prone%20to,severe%20thunderstorms%2C%20heavy%20snowfall%2C%20or%20extreme%20humidity> (“Unlike copper wires, which are prone to corrosion, fiber-optic cables do not conduct electricity, making them impervious to lightning strikes, electrical interference, and moisture-related damage. This allows fiber networks to operate smoothly even during severe thunderstorms, heavy snowfall, or extreme humidity.”); *Comparing the Durability of Fiber Optic and Copper Cables*, Linden Photonics, Inc. (Sept. 4, 2024), <https://www.lindenphotonics.com/comparing-the-durability-of-fiber-optic-and-copper-cables> (stating that fiber optic cables are less susceptible to corrosion, can function effectively in a wide range of temperatures, generally have a longer lifespan than copper cables because they do not degrade as quickly, and are generally cheaper due to reduced maintenance costs and longer lifespan, particularly in “environments where durability is critical”).

¹⁸³ See, e.g., Rural Agricultural Council of America Comments at 2 (noting that “[t]oday, over 90% of 911 calls are made from mobile devices and these modern platforms offer superior resilience during outages, floods, or emergencies”); *Facilitating Implementation of Next Generation 911 Services (NG911)*; *Location-Based Routing for Wireless 911 Calls*, PS Docket Nos. 21-479, 18-64, Report and Order, 39 FCC Rcd 8137, 8172, para. 73 (2024) (stating that IP delivery will materially reduce the number of 911 outages through improved network reliability) (citing to an *ex parte* submission by Intrado in that proceeding); *id.* at 8217, para. 174 (“[T]he implementation of NG911 is far more likely to reduce the risk of dropped 911 calls than to increase it. OSPs that make the necessary changes to fully implement NG911 will be able to leverage improvements to 911 security and reliability, including the ability to reroute 911 calls in response to network congestion or outages.”).

¹⁸⁴ See, e.g., *What is Cellular Failover?*, Inseego (Mar. 18, 2025), <https://inseego.com/resources/blog/what-is-cellular-failover/> (“Cellular failover solutions use a combination of 4G LTE/5G cellular networks and dual-SIM routers to provide a backup connection if the primary connection fails. The dual-SIM routers are connected to both the primary and secondary networks, and the router will switch to the secondary connection when needed.”); *Network outages: Common causes and how to stay connected*, AT&T (2026), <https://www.att.com/wireless/stay-connected-during-network-outages> (recommending that consumers connect to Wi-Fi for a data connection and activate Wi-Fi calling on their device for voice calls during network outages); *How to connect to emergency satellite on iPhone and Android during natural disasters*, Leah Sarnoff, ABC News (Oct. 10, 2024),

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interconnected VoIP service will continue to work during a power outage if Internet service is operational and the end user maintains a backup power supply.¹⁸⁵ And despite commenter arguments that phone service provisioned over copper lines always works during a power outage,¹⁸⁶ this is not true. Utility poles that carry copper can and do go down during severe weather events and natural disasters, cutting off both service and power to residents and businesses, while not all alternative services are vulnerable to the same type of disruption.¹⁸⁷

d. Accessibility

50. As we clear the way for providers to replace legacy networks and services with modern technologies, we expect that the technology transitions expedited by today's Order will speed the availability of advanced Internet-based accessibility solutions.¹⁸⁸ With regard to telecommunications relay services (TRS) specifically, the Commission has recently initiated proceedings to modernize TRS to ensure that those services remain effective, accessible, and sustainable for the individuals who use them.¹⁸⁹ We believe that the Commission's comprehensive review in that proceeding is the appropriate avenue to address the needs of relay users in the transition to Internet-based alternatives from analog relay services. Significantly, carriers remain obligated to comply with all accessibility requirements applicable to the services they offer and provide, and Bureau staff may remove applications from streamlined processing, if necessary, to review any concerns regarding the accessibility of the proffered replacement service. We thus decline to adopt an accessibility-specific requirement as part of the service discontinuance review under section 214 in this Order.

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<https://6abc.com/post/how-connect-emergency-satellite-iphone-android/15412132/> (detailing how to connect mobile devices to a satellite during cellular network outages in order to text emergency services, request roadside assistance, message friends and family, and share locations).

¹⁸⁵ See, e.g., FCC, *FCC/FEMA Emergency Communications Tips*, <https://www.fcc.gov/emergency>; see also *Ensuring Continuity of 911 Communications*, PS Docket No. 14-174, Report and Order, 30 FCC Rcd 8677, 8678-79, paras. 1-4 (2015); *Do VoIP Phones Work During a Power Outage? What You Need to Know for Emergency Communication*, Interwest Communications (Mar. 20, 2025), <https://www.interwestcommunications.com/blog/do-voip-phones-work-during-a-power-outage/> (asserting that VoIP phones continue to work during a power outage if backup power and internet connectivity are maintained); *VoIP Reliability in a Power Outage: What You Need to Know*, Dice Communications, <https://dicecommunications.com/voip-reliability-in-a-power-outage-what-you-need-to-know> (last visited Jan. 16, 2026) (confirming that VoIP will continue to operate during power outages through the use of backup power).

¹⁸⁶ Wired Broadband, Inc. et al. Comments at 5-7; Physicians for Safe Technology Comments at 1.

¹⁸⁷ See, e.g., Rebecca Egan McCarthy & Jake Bittle, *The winter storm exposed the grid's real weakness: Lots of old poles*, Grist (Jan. 28, 2026), <https://grist.org/energy/winter-storm-fern-utility-poles-wires-electricity-grid/>; Associated Press, *Pa. storm leaves 3 dead, about 450,000 customers without power*, The Morning Call (Apr. 30, 2025), <https://www.mcall.com/2025/04/30/pa-storm-3-deaths-power-outages/>; Peter Behr, *Widespread power outages block Helene recovery*, E&E News by Politico (Oct. 1, 2024), <https://www.eenews.net/articles/widespread-power-outages-block-helene-recovery/>; Travis Jacques Rose, *Helene caused multi-day power outages in Powdersville, Belton; 'looks like a war zone'*, Independent Mail (Oct. 7, 2024), <https://www.independentmail.com/story/news/local/2024/10/07/anderson-county-powdersville-belton-honea-path-tropical-storm-helene-power-outages-boil-water/75464426007/>.

¹⁸⁸ See *TRS Modernization Notice* at 4, para. 8 (noting the “significant transformation[]” of the TRS landscape and that [t]hese developments include a decline in the use of analog relay services, the emergence of advanced Internet-based solutions, and the integration of accessible communications functionalities into smart devices”); *id.* at 6-9, paras. 12-18; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities et al.*, CG Docket No. 03-123 et al., Notice of Proposed Rulemaking, FCC 26-4 (rel. Jan. 30, 2026) (*IP TRS Modernization Notice*).

¹⁸⁹ See *TRS Modernization Notice* at 6-9, paras. 12-18.

51. In their comments, the Accessibility Organizations argue that “any replacement test the FCC adopts should require carriers to explain, with specific examples, how at least one replacement service offered permits [individuals who are deaf, deafblind, hard-of-hearing, or who have speech disabilities] to access TRS and effectively engage in other telephone communications.”¹⁹⁰

52. In the *TRS Modernization Notice* adopted in November 2025, the Commission, in light of technological advances and declining use of analog relay services, sought to ensure that “relay services remain effective, accessible, and sustainable for individuals who are deaf, hard of hearing, deafblind, or have speech disabilities, by proposing a series of reforms to transition users to Internet-based alternatives.”¹⁹¹ We agree with Hamilton Relay that the *TRS Modernization* proceeding—which focuses on reforms designed to ensure that relay services remain effective, accessible, and sustainable as technology advances and networks transition—is the best venue in which to address any TRS issues related to technology transitions.¹⁹² However, we find that expanding IP-based services through streamlined technology transitions will work hand-in-hand with the *TRS Modernization* proceeding to ensure that no individuals who are deaf, deafblind, deafdisabled, hard of hearing, or who have speech disabilities are left without access to services that are functionally equivalent to those provided to voice telephony users.¹⁹³ Concerns regarding the accessibility features of the five categories of replacement services contained in the consolidated technology transitions discontinuance rule we adopt today should be addressed in that proceeding.

e. Other Issues

53. *Technology transition definition.* In the *Network and Services Modernization Notice*, we sought comment on whether we should retain the definition of “technology transition” in section 64.60(i) of our rules or whether we should adopt a different definition.¹⁹⁴ Section 64.60(i) currently defines a “technology transition” as “any change in service that would result in the replacement of a wireline TDM-based voice service with a service using a different technology or medium for transmission to the end user, whether internet Protocol (IP), wireless, or another type”¹⁹⁵ We received no comments on this proposal. Because we still consider the existing language to be an accurate and comprehensive definition of the term “technology transition” for purposes of our discontinuance rules, we retain it at this time.

54. *Edge cases requiring additional time.* We recognize that there are some instances—as in the case of isolated rural facilities, critical access hospitals,¹⁹⁶ or customers with unique accessibility issues¹⁹⁷—in which discontinuances may require more time than is provided for by our streamlined processing to avoid stranding consumers without access to voice services. Carriers seeking to avail themselves of our streamlined processing rules for a technology transitions discontinuance are required to

¹⁹⁰ Accessibility Organizations Comments at 4-5; *see also* AARP Reply at 8; Michigan PSC Reply at 3.

¹⁹¹ *TRS Modernization Notice* at 2, para. 1.

¹⁹² *See* Hamilton Relay Reply at 3.

¹⁹³ As Chairman Carr noted when the Commission adopted the *IP TRS Modernization Notice*, “this action supports our broader effort to encourage the IP transition. As we make the transition, we are mindful of consumer protection provisions and necessary updates to them like those we propose today.” *IP TRS Modernization Notice* at 50 (Statement of Chairman Brendan Carr).

¹⁹⁴ *Network and Services Modernization Notice*, 40 FCC Rcd at 5340, para. 27.

¹⁹⁵ 47 CFR § 63.60(i).

¹⁹⁶ *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 24546, 24553, n.37 (2003) (defining “critical access hospitals” as “limited-service rural non- or for-profit hospitals that provide outpatient and short-term inpatient hospital care on an urgent or emergency basis, then release patients or transfer them to a full-service hospital”).

¹⁹⁷ Center for Regulatory Freedom Comments at 3.

notify customers of their plan to discontinue a service and must show the availability of at least one of the replacement services enumerated above.¹⁹⁸ Any customers with concerns, as well as other interested parties, can file comments or objections to specific applications with the Commission.¹⁹⁹ Should the Bureau have any concerns about whether it is in the public interest to grant a particular request to discontinue service, it will remove the application from streamlined processing for further review,²⁰⁰ thus mitigating the risk that customers will be left without voice services in the wake of a discontinuance. In cases where a party submits plausible objections to a specific discontinuance application based on critical access needs,²⁰¹ the Bureau may determine that it is appropriate to remove the application from streamlined processing so that it may work with the discontinuing carrier to ensure that no at-risk customers are left stranded.²⁰²

55. To ensure that this process operates as intended, we direct the Wireline Competition Bureau to (1) create a master docket number for consumer section 214 discontinuance objections or comments, (2) work with the Office of the Managing Director to make any necessary changes to the Electronic Comment Filing System to accommodate such consumer objections, and (3) release a Public Notice announcing the opening of the master docket and providing instructions for discontinuing carriers. Additionally, we require carriers seeking Commission authorization for a technology transitions discontinuance application to include in their notice to customers of such planned discontinuances specific information as to how a customer who wants to object to a specific proposed discontinuance of service will be able to do so, including but not limited to providing the master docket number for such objections and the webpage(s) identified by the Bureau for further guidance and resources to file an objection or comment.

56. *Consumer outreach and education.* We decline to adopt any specific consumer outreach and education requirements in connection with the discontinuance rules we adopt today. While some commenters assert that comprehensive consumer outreach and education are essential to minimizing the potential for consumer harm during any technology transition,²⁰³ we find, consistent with prior Commission action in this regard,²⁰⁴ that any such requirements would be unduly burdensome in light of current marketplace incentives for carriers to provide customers with timely and necessary information regarding replacement voice services when those carriers seek to cease offering legacy TDM voice service. As noted previously, the Commission also puts discontinuance applications on public notice,

¹⁹⁸ 47 CFR §§ 63.71(a) (requiring customer notice of a planned discontinuance), 63.505 (requiring in the discontinuance application a “[s]tatement of the factors showing that neither present nor future public convenience and necessity would be adversely affected by the granting of the application”); Appx. A. § 63.71(f)(2); *see also supra* Section III.B.1.

¹⁹⁹ *See Second Wireline Infrastructure Order*, 33 FCC Rcd at 5677, para. 37.

²⁰⁰ *See 2016 Technology Transitions Order*, 31 FCC Rcd at 8309-10, paras. 76, 78.

²⁰¹ *See IP-Enabled Services et al.*, WC Docket No. 04-36 et al., Report and Order, 22 FCC Rcd 11275, 11338, (2007) (statement of Commissioner Jonathan S. Adelstein) (stating in the context of extending disability access requirements to providers of interconnected VoIP that “[t]his accessibility is critical in order to promote the independence of persons with disabilities, participation in our society, and critical access in emergency situations”).

²⁰² *See 2016 Technology Transitions Order*, 31 FCC Rcd at 8300, para. 83, 8309-10, para. 51 (noting that “the Commission’s discontinuance rules grant the Commission discretion to remove an application from streamlined treatment when the public interest demands a more searching review” and that it has done so “when addressing discontinuance applications that raised significant issues that required further scrutiny to protect consumers and the public interest”).

²⁰³ *See AARP Comments at 7-8; Michigan PSC Reply Comments at 4; see also generally Vermont PUC Comments; Center for Regulatory Freedom Comments.*

²⁰⁴ *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5668-72, paras. 22-28 (eliminating the uncoded education and outreach mandates adopted in the *2016 Technology Transitions Order*).

which triggers the discontinuance review process and gives affected customers and other interested parties an opportunity to comment on or object to an application. If customers facing a discontinuance of their legacy voice service do not believe they have sufficient data regarding a replacement service from a carrier seeking Commission approval to discontinue a legacy voice service, they can raise these objections with the Commission and ask the Commission to remove the application from streamlined processing for further review.

57. There are strong marketplace incentives for providers to communicate with and educate customers regarding replacement services related to their technology transitions. As the Commission has previously found, competition among carriers and differing technologies encourages carriers to communicate with customers to retain them and remain competitive.²⁰⁵ Carriers' ongoing customer relationship experience best positions them to understand and implement effective customer education and communication strategies.²⁰⁶ Our existing rules ensure that carriers make available necessary information to consumers regarding replacement voice services when those carriers seek to discontinue legacy voice services. We thus decline to adopt specific consumer outreach and education requirements in connection with the discontinuance rules we adopt today, requirements that would be redundant in light of our existing regulatory framework and notice requirements.

58. *Additional commenter proposals.* We decline to adopt USTelecom's proposal that we begin the 31-day period before streamlined applications are automatically granted when the provider submits its application to the Bureau, instead of the date the Bureau issues a Public Notice of the proposed discontinuance.²⁰⁷ While existing customers who would potentially be affected by a discontinuance will have received notice no later than when the carrier files its application,²⁰⁸ other interested parties in an affected area are only made aware of the discontinuance application and given time to comment after the Bureau releases a Public Notice of the discontinuance application. The process also enables the Bureau to confirm that an application is complete before letting the "clock" begin for a streamlined approval, consistent with section 214(a)'s mandate that the Commission consider whether a discontinuance will adversely affect the future public convenience and necessity.²⁰⁹ This benefit outweighs any short potential delays experienced by providers as a result of this requirement.²¹⁰ We note Bureau staff's diligence in releasing Public Notices once applications are posted to the Commission's Electronic Comment Filing System (ECFS) and their speed in processing applications once they are complete. However, to ensure that application processing is not unreasonably delayed, we direct the Bureau to release a Public Notice of a complete discontinuance application filing as soon as practicable but not later than ten business days of when the application is posted to the Commission's ECFS or, if the application is not complete, to communicate deficiencies in the application to the applicant within that timeframe.

59. We also decline to adopt USTelecom's proposal that we establish specific restrictions governing when the Commission can remove discontinuance applications from streamlined processing, and a timeline for the Bureau to act on an application after removing it from streamlined processing.²¹¹ In light of the above-discussed changes consolidating the applicable tests for technology transitions

²⁰⁵ *Id.* at 5669, para. 23 (citing *First Wireline Infrastructure Order*, 32 FCC Rcd at 11147, para. 45).

²⁰⁶ *Id.* at 5672, para. 27.

²⁰⁷ See USTelecom Comments at 24-25.

²⁰⁸ See 47 CFR § 63.71(a).

²⁰⁹ 47 U.S.C. § 214(a).

²¹⁰ See USTelecom Comments at 24-25.

²¹¹ See *id.* at 25-26; see also Letter from Trint Hatt, Exec. Dir., Ohio Telecom Ass'n, and Megan Mauro, Interim Pres. & CEO, Texas Ass'n of Business, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-209, 25-208, at 3 (filed Mar. 19, 2026) (Ohio Telecom Ass'n and Texas Ass'n of Business Mar. 19, 2026 *Ex Parte* Letter).

discontinuances and expanding the range of applications eligible for a 31-day streamlined review, it is not necessary to adopt additional rules restricting the Bureau's application review or creating additional time periods for objections and responses. USTelecom does not point to specific applications that have previously been subject to unnecessary discretionary delay under the current rules. Indeed, over the last five years, Bureau staff have removed only 11 discontinuance applications from streamlined processing, nine of which were in 2025 and were the result of a shutdown of certain agency operations due to a lapse in federal appropriations. In all 11 instances, staff released Public Notices granting all of those applications 51 days after such removal. And we believe that the rule changes we adopt today will make delay even less likely, because this Order broadens and clarifies the circumstances in which an alternative service is to be considered an adequate replacement for the service being discontinued. The Commission therefore maintains the necessary flexibility to address proposed discontinuances that would otherwise result in the loss of service altogether, while the treatment of discontinuances that include an adequate replacement for customers is clarified and expedited.

2. Eliminating Grandfathering Filing Requirements for Certain Services

60. We revise our rules to grant blanket section 214(a) authority for carriers to grandfather the following services to the extent they come within the purview of section 214(a): (1) any legacy voice service; (2) any lower-speed data telecommunications service; and (3) any interconnected VoIP service provisioned over copper wire.²¹² We define low-speed data telecommunications services as those operating at speeds below 25/3 Mbps while we consider forbearance from the incumbent LEC-specific interconnection and related obligations as proposed in the *IP Interconnection Notice*, after which we will revisit this definition.²¹³ This blanket grant of authority eliminates the need for carriers to file a section 214(a) application when grandfathering these services, allowing carriers to focus their resources on the development and deployment of next-generation networks while still providing service to current customers.

61. In the *Network and Services Modernization Notice*, we proposed to codify the relief granted in the Bureau's *March 2025 Grandfathering Order* and *May 2025 Grandfathering and Technical Appendix Order*.²¹⁴ In the *March 2025 Grandfathering Order*, the Bureau granted section 214(a) authority for carriers to grandfather any legacy voice or telecommunications data service covered by sections 63.71(k)-(1) of the Commission's rules and waived the requirement that carriers file a section 214(a) application seeking Commission authorization in that instance.²¹⁵ The *May 2025 Grandfathering and Technical Appendix Order* extended the relief granted in the *March 2025 Grandfathering Order* to interconnected VoIP service provisioned over copper lines.²¹⁶ The Bureau determined in both *Orders* that granting blanket section 214(a) authority was warranted due to developments in communications technologies that allow consumers to be less dependent on these legacy services.²¹⁷

²¹² See *VoIP Discontinuance Order*, 24 FCC Rcd 6039, 6044-47, paras. 9-13 (2009) (*VoIP Discontinuance Order*) (exercising ancillary authority under Title I of the Act to extend section 214 discontinuance obligations to interconnected VoIP service providers).

²¹³ This definition is consistent with sections 63.71(k)-(l) of our current rules. 47 CFR §§ 63.71(k)-(l); see also *March 2025 Grandfathering Order*, 40 FCC Rcd at 2021, para. 6; *May 2025 Grandfathering and Technical Appendix Order*, 40 FCC Rcd at 3360, para. 9; *IP Interconnection Notice* at 3, para. 4.

²¹⁴ *Network and Services Modernization Notice*, 40 FCC Rcd at 5356, para. 69; *March 2025 Grandfathering Order*, 40 FCC Rcd at 2021 para. 6; *May 2025 Grandfathering and Technical Appendix Order*, 40 FCC Rcd at 3360, para. 9.

²¹⁵ *March 2025 Grandfathering Order*, 40 FCC Rcd at 2021, para. 6.

²¹⁶ *May 2025 Grandfathering and Technical Appendix Order*, 40 FCC Rcd at 3360, para. 9.

²¹⁷ *March 2025 Grandfathering Order*, 40 FCC Rcd at 2023, para. 10; *May 2025 Grandfathering and Technical Appendix Order*, 40 FCC Rcd at 3361, para. 12.

62. We agree with commenters that eliminating unnecessary grandfathering requirements reduces carriers' burdens while not affecting existing subscribers, as current customers are entitled to keep the grandfathered service.²¹⁸ A carrier still must file a discontinuance application seeking authority to permanently discontinue one of these services, and affected customers will be notified of the planned discontinuance and have the opportunity to comment.²¹⁹ In the *March 2025 Grandfathering Order*, the Bureau noted that "carriers grandfathering these services will necessarily need to communicate to customers the grandfathering status of their service beforehand."²²⁰ We take the next step and require that carriers continue to notify current customers before grandfathering a service, including TDM-based transport services and services reliant on TDM-based trunk lines, 911 TDM circuits, and TDM private line circuits, which shall include (1) a "no earlier than" date, by which it intends to seek to permanently discontinue the service, and (2) a statement regarding alternative services available in the affected service area.²²¹

63. We retain a notification requirement because this relatively low burden on carriers will help ensure that customers learn as soon as possible that their service is likely to be discontinued at some point in the future, so they can make informed decisions about what services to purchase even before a discontinuance is imminent.²²² And any customers that still subscribe to the grandfathered service when the carrier later seeks permanent discontinuance authority will have the ability to object and ask to have the application removed from streamlined processing.²²³ These requirements alleviate concerns raised in the record that eliminating the need to file grandfathering applications in the above scenarios will allow carriers to eliminate services without any notice.²²⁴

64. We define "lower-speed" data telecommunications service for purposes of this blanket grant of authority consistent with our existing grandfathering rules—i.e., encompassing the data telecommunications services currently subject to sections 63.71(k) and (l) of our rules.²²⁵ We proposed in the *Network and Services Modernization Notice* to define lower-speed data telecommunications service as

²¹⁸ See *March 2025 Grandfathering Order*, 40 FCC Rcd at 2023-24, para. 11; *May 2025 Grandfathering and Technical Appendix Order*, 40 FCC Rcd at 3361, para. 13; US Chamber of Commerce Comments at 1; WTA Comments at 4; USTelecom Comments at 35-36. But see Bandwidth Feb. 27, 2026 *Ex Parte* Letter, Att. (proposing that the Commission except from any grant of blanket grandfathering authority low-speed data telecommunications services subject to sections 63.500 or 63.501).

²¹⁹ *March 2025 Grandfathering Order*, 40 FCC Rcd at 2021, para. 6; *May 2025 Grandfathering and Technical Appendix Order*, 40 FCC Rcd at 3361-63, para. 13.

²²⁰ *March 2025 Grandfathering Order*, 40 FCC Rcd at 2021, para. 6. Indeed, to the extent that an incumbent LEC has already retired its copper facilities before grandfathering or seeking to permanently discontinue any of the services covered by our actions today, it will have already engaged with its customers. See, e.g., *2016 Technology Transitions Order*, 31 FCC Rcd at 11147, para. 45 (noting incumbent LECs' "strong incentives to work closely with their retail customers in order to retain their business given the competition they face from competitive LECs, cable providers, and wireless providers" and that "these communications must necessarily occur for the incumbent LEC to continue providing the services to which its customers subscribe"). But see NASUCA et al. Reply at 17-24 ("Forbearance from . . . the Section 251(c)(5) public notice rules would remove the only transparent mechanism by which consumers, local governments, and competitive carriers can track where and when network changes occur."); Public Knowledge/CWA Comments at 10-16 ("The Commission should not dilute the remaining notice requirements. Impacted customers *already* face little notice and short timelines for the opportunity to urge the Commission to remove an application from streamlined treatment.") (emphasis in original).

²²¹ See *infra* Appx. A, § 63.71(j).

²²² INCOMPAS Comments at 8.

²²³ 47 CFR §§ 63.71(a)(5), (f).

²²⁴ See Rural County Representatives of California Comments at 4.

²²⁵ See 47 CFR §§ 63.71(k)-(l); see also *infra* Appx. A, § 63.71(j).

a data telecommunications service operating at speeds below 25/3 Mbps.²²⁶ When the Commission adopted section 63.71(k), which allows streamlined treatment of applications to grandfather low-speed services, it defined that term as those operating at speeds below 1.544 Mbps.²²⁷ The Commission accounted for rising network speeds in the *Second Wireline Infrastructure Order* by extending the streamlined treatment of grandfathering applications to services operating at speeds below 25/3 Mbps if replaced with services operating at 25/3 Mbps or higher.²²⁸

65. In connection with our proposed definition, we sought comment on whether we should define lower-speed service as services operating below 45 Mbps symmetrical “given the rapidly increasing bandwidths of networks today.”²²⁹ As discussed below, we agree with commenters’ concerns regarding potential unintended impacts, particularly for emergency services, if we raise the speed threshold for blanket grandfathering authority too soon.²³⁰ We thus find it appropriate to defer consideration of such action until after the Commission acts on the proposed forbearance from the incumbent LEC-specific interconnection and related obligations.²³¹ Defining lower-speed data telecommunications service as those services operating under 25/3 Mbps strikes the appropriate balance between acknowledging the increased bandwidth capabilities of modern networks and minimizing any unintended impacts on emergency services.

66. Finally, we decline to extend the scope of the blanket grandfathering authority we grant today to all interconnected VoIP services, regardless of transmission medium.²³² While we agree with USTelecom that many consumers use interconnected VoIP lines provisioned over a variety of transmission mediums, we limit the blanket section 214(a) authority we grant today to interconnected VoIP services provisioned over copper lines to promote the ongoing transition from legacy and copper-based networks to IP networks.²³³ Many consumers use interconnected VoIP service as a replacement service²³⁴ and have expectations about its availability, and we continue to find that the section 214(a) discontinuance requirements applicable to grandfathering for the majority of interconnected VoIP services is an important safeguard.²³⁵

3. Additional Requirements for Applications to Discontinue a Service Supporting Interconnection Trunks or the Exchange of Traffic

67. As part of the rules we adopt today, we require carriers seeking authority to discontinue a

²²⁶ *Network and Services Modernization Notice*, 40 FCC Rcd at 5356, paras. 69-70.

²²⁷ *First Wireline Infrastructure Order*, 32 FCC Rcd at 1161, para. 84.

²²⁸ *Second Wireline Infrastructure Order*, 32 FCC Rcd at 5662-64, paras. 5, 7, 11.

²²⁹ *Network and Services Modernization Notice*, 40 FCC Rcd at 5356, para. 70.

²³⁰ See Intrado Comments at 12-13; Bandwidth Comments at 9-12; Rural County Representatives of California Comments at 4; see also *infra* Section III.B.3.

²³¹ See USTelecom Comments at 37 (stating that the definition of lower-speed data telecommunications service should be updated to speeds below 45 Mbps symmetrical).

²³² See *id.* at 35-36.

²³³ See Intrado Comments at 1-2, 12-13 (describing the potential impact to emergency services should the Commission eliminate discontinuance requirements too quickly).

²³⁴ Interconnected VoIP lines accounted for 79% of all retail voice service connections by June of 2024, the last time the Commission reported such data. See December 2024 Voice Telephone Services Report at 3, Fig. 2.

²³⁵ See *VoIP Discontinuance Order*, 24 FCC Rcd at 6043-49, paras. 8-17 (applying section 214(a) discontinuance requirements to interconnected VoIP service so customers have notice and to safeguard against “abrupt” changes to availability).

service supporting interconnection trunks or the exchange of traffic,²³⁶ including but not limited to 911 trunks and 911 traffic—e.g., a discontinuance resulting from the decommissioning of one or more trunk lines, TDM lines directly connected to 911 selective routers, dedicated 911 TDM circuits, or TDM private line circuits, or the discontinuance of a TDM-based transport service—to specifically identify the service to be discontinued, not just the branded name of the service being discontinued.²³⁷ Carriers must also include in such discontinuance applications, in addition to the information required by sections 63.500 and 63.501,²³⁸ (1) a statement that at least 90 days prior to the planned discontinuance filing, the carrier provided a designated point of contact with authority to facilitate the orderly transition from legacy facilities that support 911²³⁹ to the 911 Authorities,²⁴⁰ 911 service providers as defined above,²⁴¹ and directly interconnecting local exchange service providers that support essential functions within 911 networks, including delivering 911 traffic to selective routers for transmission to public safety answering points (PSAPs)²⁴² in the affected service area for coordination of the transition to ensure continued 911 connectivity, and (2) a list of providers that received notice as described above in the affected service area with which the carrier has coordinated and the date(s) of that coordination.²⁴³

68. We expect the carrier's designated point of contact for facilitating the orderly transition to know whether to file either an application to dismantle or remove trunk lines, or an application to sever physical connections or to terminate or suspend interchange of traffic with another carrier. We find that a pre-filing notice and coordination period of at least 90 days is sufficient and decline to adopt either a shorter or longer period.²⁴⁴ We similarly decline to adopt Intrado's request that we do not streamline discontinuance authorization requests "to dismantle circuits that carry 9-1-1 traffic" or to adopt a presumption that initial extension requests of up to 90 days should be presumed reasonable "if the circuit

²³⁶ See 47 CFR § 63.62(a)-(b) (requiring formal applications for the discontinuance of such services).

²³⁷ See Bandwidth Comments at 4; Bandwidth Reply at 3-4; Intrado Comments at 10-11; cf. Bandwidth Feb. 27, 2026 *Ex Parte* Letter at 2 (asking the Commission to "require carriers filing Section 63.71 discontinuance applications to make clear the service does not support interconnection trunks and that no such service will be discontinued without filing an application under Section 63.500 or 63.501").

²³⁸ 47 CFR §§ 63.500, 63.501.

²³⁹ See Intrado Reply at 5; see also Letter from Diana Eisner, Vice Pres., Regulatory & Legal Affairs, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-208, 25-209, at 2 (filed Feb. 5, 2026) (USTelecom Feb. 5, 2026 *Ex Parte* Letter).

²⁴⁰ 47 CFR § 9.28 (defining 911 Authority as "[a] State, territorial, regional, Tribal, or local governmental entity that operates or has administrative authority over all or any aspect of a communications network for the receipt of 911 traffic at NG911 Delivery Points and for the transmission of such traffic from that point to PSAPs").

²⁴¹ See *supra* note 34.

²⁴² Bandwidth Mar. 17, 2026 *Ex Parte* Letter at 1; see also Letter from Christopher L. Shipley, Exec. Dir. Of Public Policy, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-209, 25-208, at 2 (filed Mar. 20, 2026) (INCOMPAS Mar. 20, 2026 *Ex Parte* Letter).

²⁴³ See *Networks and Service Modernization Notice*, 40 FCC Rcd at 5349, 5358-59, paras. 44, 77. We note that because our rules require carriers to send copies of their discontinuance applications to state public utility commissions, 47 CFR § 63.71(a), we do not need to amend our rules to include such notice, as proposed by certain commenters. See NASNA Comments at 2-3; Pennsylvania PUC Reply at 8.

²⁴⁴ See, e.g., Letter from Lauren Kravetz, Vice President, Government Affairs, Intrado, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-208, 25-209, at 5 (filed Feb. 27, 2026) (Intrado Feb. 27, 2026 *Ex Parte* Letter) (in response to release of the public draft of this Order, asking for "180 days' advance notice before dedicated 9-1-1 circuits can be decommissioned"); Bandwidth Mar. 17, 2026 *Ex Parte* Letter at 1-2 (in response to release of the public draft of this Order, asking for extensions beyond 90 days); USTelecom Mar. 19, 2026 *Ex Parte* Letter at 7-8 (in response to release of the public draft of this Order, asking the Commission to reduce the pre-filing coordination to 30 days).

customer certifies to the circuit provider that the circuit in question is carrying live 9-1-1 traffic and there is no alternative available within the time frame of the notice.”²⁴⁵ Rather, we expect the parties to work cooperatively during this pre-filing coordination period, including the granting of good faith requests from 911 service providers for reasonable extensions upon a showing of both continued live 911 traffic over the affected facilities and the lack of an alternative available within the timeframe of the planned discontinuance, to ensure that 911 continuity is not disrupted.²⁴⁶

69. To comply with this certification requirement, we expect that carriers and service providers will engage in a planned and managed process for the orderly shutdown or reduction of services to customers, including 911 Authorities handling live traffic, while ensuring compliance with regulatory requirements and a smooth transition to alternative providers.²⁴⁷ While we agree with USTelecom that “an email account for a centralized team (e.g., “publicsafety@provider.com”) that is available to address any customer concerns if a vendor learns from a PSAP that a circuit is being disconnected is sufficient for purposes of this requirement,”²⁴⁸ we expect that inquiries sent to that account would be timely addressed by a person with decision-making authority to ensure a timely, good faith response to such communications.²⁴⁹ We believe this modification, in conjunction with the existing requirement that an application to sever a physical connection or terminate or suspend the interchange of traffic with another carrier include a “statement as to whether severance of physical connection or termination or suspension of interchange of traffic is being made with consent of other carrier,”²⁵⁰ strikes the correct balance to promote the Commission’s goals of encouraging the development and deployment of advanced, next-generation networks and services and supporting the parallel adoption of NG911 emergency services networks, while ensuring seamless 911 connectivity.²⁵¹

70. We decline Bandwidth’s proposals to include an explicit requirement that carriers

²⁴⁵ Intrado Feb. 27, 2026 *Ex Parte* Letter at 5-6.

²⁴⁶ Cf. Intrado Feb. 27, 2026 *Ex Parte* Letter at 5-6 (proposing that the Commission find that extension requests where live 911 traffic is still being carried over the circuits at issue and no alternative solution is available are presumptively reasonable); Bandwidth Feb. 26, 2026 *Ex Parte* Letter at 2 (explaining what happens if no replacements for trunk-side services are available).

²⁴⁷ See, e.g., Letter from Lauren Kravetz, Vice Pres., Gov’t Affairs, Intrado Life & Safety, Inc., to Marlene Dortch, Secretary, FCC, WC Docket Nos. 25-304 & 17-97, at 1-3 (dated Feb. 17, 2026) (Intrado Feb. 18, 2026 *Ex Parte* Letter). The discontinuing carrier is responsible in the first instance to ensure it is complying with the proper discontinuance application requirements and that it is taking the steps necessary to fulfil its role in a managed and orderly shutdown of service. Where a carrier falls short in any of those respects, the Bureau is empowered to more closely scrutinize, remove from streamlining, or condition future discontinuance requests by that carrier. Given this, we are not persuaded of the need to go further to ensure that discontinuing carriers, like 911 authorities and other service providers, do their part to ensure a smooth and orderly transition process, as some suggest. See, e.g., Public Knowledge Mar. 17, 2026 *Ex Parte* Letter at 3-4 (expressing concerns that the needs of specific, individual customers might not be met); Bandwidth Mar. 17, 2026 *Ex Parte* Letter at 1-2 (advocating certifications regarding following the proper filing process and a specifically-defined due diligence requirement); (Intrado Mar. 13, 2026 *Ex Parte* Letter at 2-3 (proposing requirements addressing the resolution of coordination discussions); Intrado Feb. 25, 2026 *Ex Parte* Letter at 6 (expressing a need for extensions of time where 911 service could be adversely affected).

²⁴⁸ USTelecom Feb. 5, 2026 *Ex Parte* Letter at 2.

²⁴⁹ See Intrado Feb. 18, 2026 *Ex Parte* Letter at 2; Public Knowledge Mar. 13, 2026 *Ex Parte* Letter at 5 (in response to the public draft of this Order, asking that the Commission “require a response to 911 providers or vendors within 24 hours, or at a minimum, 1 business day”).

²⁵⁰ 47 CFR § 63.501(p).

²⁵¹ See, e.g., NENA Comments at 1, 4 (asserting that “9-1-1 entities must receive adequate notice and be provided with reliable alternatives before any changes [to copper wire service] occur”); INCOMPAS Comments at 3-6, 8; Bandwidth Comments at 4-7; Intrado Comments at 5-12; NASNA Comments at 3-6; Pennsylvania PUC Comments at 7-8.

“perform pre-filing diligence to determine whether an application under rule 63.500 or 63.501 is required” and to require a discontinuing carrier to include in all other discontinuance applications that the discontinuance will not impact 911.²⁵² We find that the coordination requirement we adopt today, together with our short-term network change and copper retirement disclosure requirements and the certification requirement for all discontinuance applications, is transparent and sufficient to ensure that carriers seeking to discontinue a service supporting interconnection trunks or the exchange of traffic, including but not limited to 911 trunks and 911 traffic, will engage in the requisite coordination and comply with all applicable discontinuance application content requirements. We also find that the guardrails we adopt today obviate the concerns raised by Allerium regarding the service quality of available replacement services.²⁵³

71. While we find that forbearance relief is not appropriate for lower-speed data telecommunications services as defined in this Order,²⁵⁴ we decline to adopt NTCA’s proposal to specifically disallow the discontinuance of DS1 and DS3 circuits “absent a showing by the provider . . . that the carrier has an alternative IP offering available for the same route pathway as the discontinued service on reasonable rates, terms, and conditions.”²⁵⁵ NTCA contends that many of its members rely in part on DS1 and DS3 connections provided by larger providers for the exchange of voice traffic through subtended tandems, and that price cap carriers have been increasing pricing on these transmission circuits.²⁵⁶ It further asserts that in some instances, price cap carriers suggested discontinuance altogether despite the purported lack of meaningful alternative facilities or services, whether in IP or TDM.²⁵⁷

72. We agree with NTCA that these circuits are critical infrastructure for many rural providers and that price cap carriers’ ability to discontinue DS1s and DS3s without adequate replacement services could harm rural communities.²⁵⁸ However, our rules already require that carriers obtain Commission authorization before dismantling or removing a trunk line or severing a physical connection or terminating or suspending the interchange of traffic with another carrier,²⁵⁹ and the availability of an adequate replacement service is already factored into Bureau staff’s consideration of whether to grant

²⁵² Bandwidth Mar. 17, 2026 *Ex Parte* Letter at 1-2; *see also* INCOMPAS Mar. 20, 2026 *Ex Parte* Letter at 2-3 (in response to the public draft of this Order, asking that the Commission require the same certification requested by Bandwidth as well as a certification from a carrier seeking streamlined discontinuance that such services—i.e., decommissioning of trunk lines and trunk-side services impacting the exchange of traffic—“will not be discontinued prior to filing an application under §§ 63.500 or 63.501”).

²⁵³ *See generally* Letter from Susan C. Ornstein, Sr. Dir., Legal & Regulatory Affairs, Allerium, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-209, 25-208 (filed Mar. 17, 2026) (Allerium Mar. 17, 2026 *Ex Parte* Letter); *see also* Letter from Harriet Rennie-Brown, Exec. Dir., National Ass’n of State 911 Administrators, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-209, 25-208, at 1 (filed Mar. 19, 2026) (NASNA Mar. 19, 2026 *Ex Parte* Letter).

²⁵⁴ *See infra* Section III.B.4.b.

²⁵⁵ *See* NTCA Comments at 8-9; *see also* Competitive Carriers Ass’n Reply at 3; Intrado Mar. 13, 2026 *Ex Parte* Letter at 3.

²⁵⁶ NTCA Comments at 8.

²⁵⁷ *Id.*

²⁵⁸ *Id.*; *see also* Bandwidth Comments at 4; Bandwidth Reply at 5.

²⁵⁹ 47 CFR §§ 63.62(a)-(b), 63.500, 63.501; *see also* *First Wireline Infrastructure Order*, 32 FCC Rcd at 11170, para. 112 & n.361 (stating that its conclusion that a carrier need not seek Commission approval before discontinuing service “when a change in service directly affects only carrier-customers” does not apply to “severance of physical connection or the termination or suspension of the interchange of traffic with another carrier” (quoting 47 CFR § 63.62(b))); Bandwidth Comments at 9; INCOMPAS Comments at 6-7; Bandwidth Reply at 3.

discontinuance authorization.²⁶⁰ We find that any further requirements relating to such situations are more appropriately addressed in our *IP Interconnection* proceeding in which we will examine the regulatory framework for TDM and IP interconnection for voice services.²⁶¹ In the interim, incumbent LECs remain obligated to provide direct notice to interconnected telephone exchange service providers, 911 service providers,²⁶² and directly interconnecting local exchange service providers that support essential functions within 911 networks, of planned network changes and copper retirements,²⁶³ and to obtain Commission authorization should any planned network change or copper retirement result in a discontinuance of service, including complying with the pre-application filing coordination requirement we adopt today.²⁶⁴ The additional requirements we adopt here for discontinuances involving dismantling or removing a trunk line or severing a physical connection or terminating or suspending the interchange of traffic with another carrier ensure collaboration between the respective parties²⁶⁵ and provide safeguards to avoid unintended disruptions of 911 connectivity.²⁶⁶ And wholesale customers that use circuits for 911 purposes may request priority designation from their wholesale provider so that the circuits are identified as 911 circuits.²⁶⁷

73. Finally, as discussed further below,²⁶⁸ we retain at this time our rules setting forth the

²⁶⁰ In evaluating whether “the public convenience and necessity is otherwise adversely affected” by the discontinuance, the Commission has long considered: (1) the financial impact on the common carrier of continuing to provide the service; (2) the need for the service in general; (3) the need for the particular facilities in question; (4) increased charges for alternative services; and (5) the existence, availability, and adequacy of alternatives. *Network and Services Modernization Notice*, 40 FCC Rcd at 5338, n.63; *2016 Technology Transitions Order*, 31 FCC Rcd at 8304, para. 62; *Applications for Authority Pursuant to Section 214 of the Communications Act of 1934 to Cease Providing Dark Fiber Service*, Memorandum Opinion and Order, 8 FCC Rcd 2589, 2600, para. 54 (1993), *remanded on other grounds*, *Southwestern Bell v. FCC*, 19 F.3d 1475 (D.C. Cir. 1994); *see also* 47 CFR §§ 63.500(n) (requiring a “complete statement showing how the traffic load on the line proposed to be removed will be diverted to other lines and the adequacy of such other lines to handle the increased load”), 63.501(n) (requiring a “statement as to how points served by means of such physical connection or interchange will be served thereafter”); *cf.* Bandwidth Feb. 27, 2026 *Ex Parte* Letter at 2 (asking the Commission to require the discontinuing carrier to “certify that one of the following fully functional replacement services are available: (1) the PSAP(s) being served by the selective router is connected to an ESInet that will handle the E911 traffic formerly served by the DS1 interconnecting to the selective router; (2) the discontinuing carrier offers Ethernet transport plus a protocol conversion service that enables the delivery of E911 traffic to the selective router; or (3) a third-party offers Ethernet transport plus a protocol conversion service that enables delivery of E911 traffic to the selective router”).

²⁶¹ *See generally* *IP Interconnection Notice*, FCC 25-73; *see also* INCOMPAS Comments at 7 (“Eliminating 63.500 and 63.501 without replacing them with a strong, enforceable interconnection framework would effectively allow ILECs to withdraw essential facilities such as those required for 911 call delivery without public notice, Commission review, or regard for competitive consequences.”).

²⁶² *See supra* Section III.A

²⁶³ *See supra* Section III.A; *infra* Appx. A, § 51.333; *see also* Bandwidth Mar. 17, 2026 *Ex Parte* Letter at 1 (noting that “trunk-side TDM services are typically provided over fiber”).

²⁶⁴ 47 U.S.C. § 214(a); 47 CFR §§ 63.62(a)-(b), 63.500, 63.501.

²⁶⁵ *But see* Letter from Kathleen Slattery Thompson, Vice Pres., Regulatory & Legal Affairs, et al., USTelecom—The Broadband Ass’n, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 25-209 et al., at 1 (filed Feb. 27, 2026) (USTelecom Feb. 27, 2026 *Ex Parte* Letter) (asserting that “[a] cooperative process, tailored to the specific circumstances of a particular decommissioning effort, remains the best way to work through Intrado’s concerns” regarding 911 connectivity).

²⁶⁶ *See* Bandwidth Comments at 1 (stating that “TDM services are used for interconnection and delivery of 911 calls”); Pennsylvania PUC Comments at 7-8; NASNA Comments at 2-3; NENA Comments at 1.

²⁶⁷ USTelecom Reply Comments at 10-11.

²⁶⁸ *See infra* Section III.B.7.b.

content requirements for applications seeking to dismantle or remove a trunk line, to sever physical connections, or to terminate or suspend interchange of traffic with another carrier.²⁶⁹ We find that these backstops should be sufficient to address 911 service provider concerns. Regardless, the Commission can deny individual applications to discontinue TDM services if the backstops prove insufficient and discontinuance would adversely affect the public convenience or necessity.

4. Limited Section 214(a) Forbearance

74. We grant forbearance relief to resellers “for resold services that are the subject of a technology transition discontinuance by the reseller’s wholesale provider,”²⁷⁰ conditioned on appropriate notice to customers. However, we do not grant broader forbearance relief from any section 214(a) discontinuance requirements or associated regulations at this time. Based on the record in this proceeding, we conclude that the conditions for granting forbearance relief from discontinuance requirements beyond that described above do not exist at this time.²⁷¹ Rather, the subject of broader forbearance relief is more appropriately addressed after any forbearance from the incumbent LEC-specific interconnection and related obligations as proposed in the October 2025 *IP Interconnection Notice of Proposed Rulemaking*.²⁷²

a. Conditional Forbearance for Resold Services

75. In this Order, we determine that it is appropriate to forbear from all section 214(a) discontinuance requirements for resellers discontinuing resold services where the reseller’s wholesale provider is engaging in a technology transitions discontinuance, with the condition that the discontinuing resellers provide reasonable notice to their customers. We sought comment on such forbearance relief in the *Network and Services Modernization Notice*,²⁷³ and no commenters objected to this relief.

76. *Ensuring practices are just and reasonable (section 10(a)(1)).* We find that enforcement of section 214(a)’s discontinuance requirements, as well as the requirements of the Commission’s implementing rules, where a resold service is being discontinued as a result of the wholesale provider’s technology transitions discontinuance is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory.²⁷⁴ We agree with INCOMPAS that “[a] review of the consequences of the reseller’s ‘charges, practices, classifications, or regulations by, for, or in connection with’ those services is an empty formalism.”²⁷⁵ In these situations, the discontinuance is due to circumstances beyond the reseller’s control. Moreover, the discontinuance of the resold service at issue will be subject to Commission consideration in the context of the wholesale provider’s technology transitions discontinuance application, including consideration of any objections filed in response to such application.²⁷⁶ Thus, there is no need to engage in a redundant review when the reseller then seeks to discontinue the resold service.

77. *Protection of consumers (section 10(a)(2)).* We also find that enforcement of section

²⁶⁹ See 47 CFR §§ 63.500, 63.501.

²⁷⁰ INCOMPAS Comments at 9-14.

²⁷¹ See, e.g., Public Knowledge/CWA Comments at 20 (asserting that “Congress did not intend for Section 10 to replace Notice-and-Comment rulemaking, but to provide the Commission with a precision tool to respond to changing market conditions and the emergence of new technologies Congress could not foresee”).

²⁷² See *IP Interconnection Notice* at 17, para. 32.

²⁷³ *Network and Services Modernization Notice*, 40 FCC Rcd at 5349, para. 43.

²⁷⁴ 47 U.S.C. § 160(a)(1).

²⁷⁵ INCOMPAS Comments at 11.

²⁷⁶ 47 CFR § 63.71(f)(2).

214(a)'s requirements, as well as the requirements of the Commission's implementing rules, is not necessary in this context to protect consumers.²⁷⁷ When a wholesale provider discontinues a legacy voice service, the reseller in nearly all cases has no available alternative sources from which to obtain replacement TDM-based services to resell to its end-user customers.²⁷⁸ The only requirement needed to ensure that consumers are protected in such situations is notice from the reseller to its customers.²⁷⁹ We thus impose on any reseller availing itself of this forbearance relief the condition that it provide such notice to its affected customers as soon as practicable after the reseller receives notice from its wholesale provider of the planned technology transitions discontinuance that it will no longer be able to provide the relevant legacy voice service. Such notice is to be provided to customers as soon as practicable via any method for which the customer has previously provided express, verifiable approval, and it must set forth the following: (1) the name and address of the carrier; (2) the date of the planned service discontinuance; (3) the points of geographic areas of service affected; (4) a brief description of type of service affected; and (5) a statement regarding the availability of alternative services in the affected service area. We find that this condition will sufficiently protect consumers when a reseller discontinues a resold service because it will no longer be available from the wholesale provider.

78. *Consistent with the public interest (section 10(a)(3)).* Finally, we hold that forbearance from applying the discontinuance requirements in the circumstances described above is consistent with the public interest.²⁸⁰ The discontinuance of the resold service at issue will be subject to Commission consideration in the context of the wholesale provider's technology transitions discontinuance application,²⁸¹ and the Commission will not grant that underlying discontinuance application if the discontinuance would adversely impact the public interest, including with respect to the provision of 911 service.²⁸² Moreover, forbearance in this limited situation is consistent with the public interest because it will conserve carrier resources that might otherwise be spent on regulatory compliance, and we expect carriers to make those resources available for better bundling of services, better tailoring of packages to businesses and consumers, and by providing support to customers. This could include managing first-level technical support, billing, and customer service, and acting as the primary contact for customers, and offering value-added services, including specialized expertise, customized solutions, and bundled IT services.

b. No Broad Section 214(a) Forbearance

79. We find that broader forbearance from discontinuance requirements, whether limited to legacy voice service in specific instances or with respect to all applications to discontinue any type of service, without qualification,²⁸³ is not warranted at this time.²⁸⁴ The streamlined approach we adopt

²⁷⁷ 47 U.S.C. § 160(a)(2).

²⁷⁸ See INCOMPAS Comments at 11.

²⁷⁹ But see INCOMPAS Comments at 12 (asserting that a customer requirement is unnecessary to protect consumers because "[r]esellers have powerful incentives to notify their own customers of any discontinuance so that they can persuade those customers to purchase replacement services offered by the reseller").

²⁸⁰ 47 U.S.C. § 160(a)(3).

²⁸¹ 47 CFR § 63.71(f)(2).

²⁸² See *2016 Technology Transitions Order*, 31 FCC Rcd at 8307-08, para. 72 (noting that 911 service is a critical application that must remain available and functional as part of any technology transition).

²⁸³ See *Network and Services Modernization Notice*, 40 FCC Rcd at 5346-47, para. 37. But see USTelecom Comments at 3-23 (urging the Commission to conditionally forbear from section 214(a)'s discontinuance requirements for technology transitions discontinuances); Ohio Telecom Ass'n and Texas Ass'n of Business Mar. 19, 2026 *Ex Parte* Letter at 2 (supporting USTelecom's request for conditional forbearance for technology transitions discontinuances).

above speeds transitions where acceptable marketplace alternatives exist. Broader forbearance risks unintended disruptions to public safety and the proper operation of, among other things, security and medical monitoring services, and thus is not consistent with the public interest.²⁸⁵

80. *Ensuring practices are just and reasonable (section 10(a)(1)).* We conclude that the requirements of sections 214(a) of the Act and 63.71 of our rules are still necessary at this time to ensure that charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory. Areas still exist in this country where, despite the broad scope of wireless and satellite service offerings, no alternative services exist.²⁸⁶ The record reflects concerns regarding price increases, whether real or potential, that could negatively impact customers.²⁸⁷ The filing of discontinuance applications allows the Commission and all stakeholders to receive notice and review in real time service transitions as carriers plan them.

81. *Ensuring protection of consumers (section 10(a)(2)).* We find that enforcement of the requirements at issue are necessary for the protection of consumers. As illustrated in the record, locations exist where fiber has not yet been deployed and where wireless service may not reach or be sufficiently robust to support reliable voice service.²⁸⁸ By retaining the requirement that a carrier must seek

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²⁸⁴ 47 U.S.C. § 160(a); *see also, e.g.*, AICC Comments at 13-15. *But see* WTA Reply at 4 (stating that “[t]he availability of alternative services from that provider or other providers means that the discontinuance requirements are not necessary to protect consumers, and the public interest would be enhanced by the elimination of these requirements”).

²⁸⁵ *See, e.g.*, AICC Comments at 13-15; Public Knowledge/CWA Comments at 19. *But see* WTA Reply at 2-3 (asserting that “the majority of alarm systems are now connected via cellular/wireless or Internet service” and that “most of the alarm monitoring is conducted via wireless or Internet connections, so Commission action here to hasten the technology transition will not lead to a spike in burglaries”).

²⁸⁶ *See Network and Services Modernization Notice*, 40 FCC Rcd at 5347, para. 40; *see also* Public Knowledge/CWA Comments at 19 (“Carriers that cannot meet the existing adequate replacement test almost definitionally face no competition and nothing to constrain them from charging unjust and unreasonable rates, or engaging in unreasonably discriminatory practices – such as refusing to serve customers in high-cost rural areas or in low-income communities.”); NASUCA et al. Reply at 11-13 (“[S]afe, reliable alternative options do not exist in every region of every state. Another example from Connecticut of where that level of competition does not exist is Greenwich, Connecticut Likewise, in the AT&T California proceeding where it sought to eliminate its COLR obligations, the Commission rejected AT&T’s contention that there were adequate alternatives.”); Competitive Carriers Ass’n Comments at 2-3 (asserting that “the potential for these facilities to be discontinued altogether without alternative facilities or services threaten real harm to communications in rural areas. These ILEC practices create unnecessarily high transport and equipment expenses on small carriers and perpetuate inefficiencies that also stifle network innovation and modernization”); Wired Broadband et al. Comments at 3 (“Removing copper landlines would endanger the lives of Americans because there is no adequate or reliable substitute in the event of an electrical or cellular outage. There is no effective alternative to replace copper landlines in emergencies.”).

²⁸⁷ *See, e.g.*, Public Knowledge/CWA Comments at 19 (asserting that “[c]arriers that cannot meet the existing adequate replacement test almost definitionally face no competition and nothing to constrain them from charging unjust and unreasonable rates, or engaging in unreasonably discriminatory practices – such as refusing to serve customers in high-cost rural areas or in low-income communities.”); NTCA Comments at 6 (“Any replacement service assessment under the consolidated rule must preserve the availability of standalone voice options at reasonable rates.”).

²⁸⁸ *See, e.g.*, Public Knowledge/CWA Comments at 19 (“Section 214 plays a critical role in ensuring that the Commission has an adequate understanding of where services are no longer available and in protecting communities from the loss of potentially life-saving services on which a great deal of social and economic activity still depends.”); NTCA Reply at 6-7 (“Consumer protection, a key requirement for forbearance under section 10(a)(2), demands verification of service availability and adequacy, and forbearance at this time—absent detailed analysis of local conditions, particularly in rural areas where availability and adequacy can be limited, and coverage data can be spotty—would create regulatory uncertainty rather than clarity while also risking stranding customers in remote areas who have the most need of a reliable, working connection in the event of an emergency.”); NASUCA et al.

(continued....)

Commission authorization to discontinue the service at issue, we ensure that customers and other interested parties, including state regulators, will have the opportunity to raise such concerns in objections to the discontinuance application,²⁸⁹ thereby allowing the Commission to more fully examine the merits of such claims and work with carriers to ensure that no consumers lose access to vital communications capabilities.²⁹⁰ This concern applies with equal force to the type of conditional forbearance proposed by USTelecom and supported by the Ohio Telecom Association and the Texas Association of Business.²⁹¹

82. *Consistent with the public interest (section 10(a)(3)).* In the *Network and Services Modernization Notice*, we proposed that forbearance in certain circumstances would “promote competitive market conditions by eliminating superfluous regulations that slow the transition to next-generation IP-based services and by enabling carriers to redirect resources away from legacy voice services—which are no longer competitive and are not in high demand—and toward maintaining and building out the next-generation IP-based services that consumers not only desire but have come to expect.”²⁹²

83. Based on the record, we do not adopt this proposal and determine that forbearance from section 214(a) discontinuance requirements as a general matter is not consistent with the public interest at this time. Without the backstop of customer objections and Commission review of an application and those objections, the Commission would not be able to confirm the availability of an adequate

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Reply at 7 (“The populations who rely most heavily on legacy landlines are those aged 65 or older, rural Americans, and Native American tribes in rural territories that are historically underserved and where legacy copper networks may provide the only available service.”); *see also* Rural County Representatives of California Comments at 2 asserting that forbearance from discontinuance requirements is “a direct threat to the safety and connectivity of millions of rural Americans”. *But see* USTelecom Comments at 7-8 (“[T]he Commission should forbear from enforcing Section 214(a)’s requirement of Commission approval of a discontinuance application for a technology transition where a carrier attests in a notice filed with the Commission that (1) marketplace alternatives exist for the discontinued service throughout the service area, and (2) it has notified its remaining customers of the planned discontinuance of the legacy service.”); Ohio Telecom Ass’n and Texas Ass’n of Business Mar. 19, 2026 *Ex Parte* Letter at 2-3 (making the same request).

²⁸⁹ *See* 47 CFR § 63.71(a); *Network and Services Modernization Notice*, 40 FCC Rcd at 5341, para. 29; *see also*, e.g., NTCA Reply at 6 (“While NTCA does not oppose forbearance in principle, the arguments and limited facts presented in this record do not satisfy the statutory criteria under Section 10 of the Act for a sweeping grant of forbearance. As discussed above, theoretical coverage depicted on the NBM bears little resemblance to consumers’ actual experience with these services, particularly in rural areas. Consumer protection, a key requirement under Section 10(a)(2), demands verification of service availability and adequacy, not assumptions based on flawed mapping data.”); Public Knowledge/CWA Comments at 19-20 (“As the Commission has long observed when considering the necessity of retaining or imposing Section 214 discontinuance requirements, Section 214 plays a critical role in ensuring that the Commission has an adequate understanding of where services are no longer available, and in protecting the community of service from loss of life-saving services on which a great deal of social and economic activity still depends . . . [T]here is no reason to use forbearance rather than rulemaking. Congress did not intend for Section 10 to replace Notice-and-Comment rulemaking, but to provide the Commission with a precision tool to respond to changing market conditions and the emergence of new technologies Congress could not foresee.”).

²⁹⁰ *See*, e.g., NTCA Reply at 6 (“Consumer protection, a key requirement under Section 10(a)(2), demands verification of service availability and adequacy, not assumptions based on flawed mapping data.”); Public Knowledge/CWA Comments at 19. *But see* USTelecom Comments at 16 (asserting that forbearance from Section 214(a) discontinuance applications will not affect consumers’ access to emergency services, nor will it affect the applications and functionalities that the Commission in the past has identified as key for legacy voice consumers); WTA Comments at 4 (asserting that “the discontinuance requirements are not necessary to protect consumers”).

²⁹¹ USTelecom Comments at 7-8; Ohio Telecom Ass’n and Texas Ass’n of Business Mar. 19, 2026 *Ex Parte* Letter at 2.

²⁹² *See Network and Services Modernization Notice*, 40 FCC Rcd at 5348, para. 42.

replacement service for the affected customers, including in instances where a provider may be relying on “not-yet-deployed technologies,” particularly in less economically attractive locations.²⁹³ Moreover, we find that forbearance from section 214(a) discontinuance requirements would remove the safeguard of the objection process that might reveal the potential for unintended impacts on, among other things, continued 911 connectivity.²⁹⁴ Our streamlined application of section 214(a)’s requirements with less burdensome non-dominant procedures in place is predictable and functions as a backstop that allows the Commission to promote competitive market conditions.²⁹⁵

84. We also specifically find that granting forbearance relief from the section 214 requirements for discontinuance of lower-speed data telecommunications services is not in the public interest because of potential impacts on, among other things, the provision of 911 service.²⁹⁶

²⁹³ See, e.g., AARP Comments at 15-16; Wired Broadband et al. Comments at 7.

²⁹⁴ See, e.g., INCOMPAS Comments at 2-3 (urging “caution[] against wholesale elimination of core protections that ensure continued interconnection, access to public safety networks (including 911), and the competitive viability of providers that depend on the very facilities being retired” and noting that without access to IP interconnection, [c]ompetitive providers . . . are being forced to rely on legacy trunk-side facilities, like DS1/DS3 links and selective router connections, for which there are often no viable alternatives”); Competitive Carriers Ass’n Reply at 3-4 (agreeing with INCOMPAS that “the success of the tech transition will depend not just on the loop side of the network, but on the preservation of reliable, nondiscriminatory interconnection on the trunk side as well”). But see USTelecom Comments at 11 (“Eliminating the requirement to file Section 214 applications and obtain Commission discontinuance approval — where alternatives exist and after providing notice to customers — will not adversely impact consumers. Consumers, by their own actions in the marketplace, have established that there are numerous sufficient (and superior) replacements for legacy voice service. And any customers remaining on a legacy voice service will have ample notice of the planned discontinuance, affording an opportunity to bring to the Commission any legitimate concerns about the availability of replacement voice service. Consumers are best protected by the robust competition in the communications marketplace, not by the Commission’s Section 214(a) discontinuance application requirements.”); WTA Comments at 4 (asserting that “the public interest would be enhanced by the elimination of these [discontinuance] requirements”).

²⁹⁵ See *Minnesota Independent Equal Access Corporation’s Petition for Forbearance from Dominant Carrier Regulation*, WC Docket No. 22-407, Declaratory Ruling and Memorandum Opinion and Order, 38 FCC Rcd 10869, 10886, para. 36 (2023) (granting conditional forbearance from dominant carrier regulation, “subject to MIEAC’s compliance with the non-dominant carrier rules associated with” relevant provisions of the Act, noting “precedent whereby the Commission has granted forbearance from particular provisions of the Act or regulations because other applicable regulatory requirements (including requirements imposed as a condition of the grant of forbearance) provided the necessary safeguards to ensure sufficient competition and protect consumer welfare”).

²⁹⁶ See, e.g., Intrado Comments at 6 (asserting that “[f]orbearance with respect to the need to carefully coordinate the decommissioning of TDM circuits used in 911 . . . might hasten catastrophic 911 outages in areas of the country that have not transitioned if ILEC 911 circuit providers have free rein to take circuits down without deliberate, advance coordination with state public safety agencies and their vendors supported by Commission oversight”); Bandwidth Comments at 5 (urging the Commission “adopt safeguards to ensure the continuity of 911 service,” including by “mak[ing] clear that any network change that results in discontinuing a service supporting interconnection trunks or the exchange of traffic requires a carrier to file an application under 47 C.F.R. §§ 63.500 and 501 to dismantle a trunk line and suspend the interchange of traffic with another carrier”); INCOMPAS Comments at 4 (“[D]espite the ILECs’ rapid migration of their own loop-side customers to IP-based services they continue to require [competitive providers] to maintain TDM interconnection at the tandem, end office, and selective router level. This includes the critical delivery of 911 calls, which remains heavily dependent on trunk-side TDM connections. Moreover, ILECs have declined to offer a pathway for [competitive providers] to use newly deployed Ethernet transport facilities to interconnect with tandems or deliver 911 traffic. Even in cases where [competitive providers are] investing in Ethernet-based collocations at nearly 200 wire centers, ILECs still demand DS1 cross-connects to the tandem—a requirement that is increasingly unworkable given both the scarcity of DS1 services and their rapidly escalating costs”) (internal citations omitted); NTCA Comments at 8-9; AICC Comments at 16-17 (“[M]any alarm systems and monitoring operations continue to rely on these services for critical communications functions. Specifically, many alarm systems utilize data communication for signal transmission, and monitoring centers often employ diverse

(continued....)

5. The 31-day Automatic Grant Period Applies to All Discontinuance Applications

85. We adopt our proposal to revise section 63.71 of our rules to extend the 31-day automatic grant period applicable to applications to discontinue a service for which a carrier is non-dominant to all instances in which a domestic carrier submits a request to discontinue a service,²⁹⁷ along with the corresponding 15-day objection period.²⁹⁸ Section 63.71(f)(1) of the Commission's rules allows a discontinuance application filed by a domestic, non-dominant carrier to be automatically granted on the 31st day after it is filed with the Commission,²⁹⁹ unless the Commission notifies the applicant otherwise.³⁰⁰ If a carrier is dominant, however, the current automatic grant period is 60 days after filing.³⁰¹ Expanding the applicability of the 31-day automatic grant period to include dominant carrier discontinuance applications will speed up the processing of those applications and further the critical goal of transitioning to modern networks for all consumers. And because the Commission retains the authority to remove applications from streamlined processing, the public interest will still be protected as required by section 214(a).³⁰²

86. We conclude that 31 days is sufficient time for the Commission to determine whether to remove a dominant carrier's discontinuance application from streamlined processing or to allow automatic grant of the discontinuance.³⁰³ Some commenters suggest that the 31-day auto-grant period, which provides a 15-day window for customers and other interested parties to file objections,³⁰⁴ is not enough time for consumers to learn about adequate replacements and ensure there are no unintended consequences of the discontinuance, such as loss of 911 services.³⁰⁵ However, 31 days has proven to be

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communication pathways including lower speed data connections for redundancy and reliability purposes. The availability of higher speed alternatives does not eliminate the ongoing need for these services in life safety applications.”); *see also* Rural County Representatives of California Comments at 2 (asserting that forbearance from discontinuance requirements is “a direct threat to the safety and connectivity of millions of rural Americans”).

²⁹⁷ *Network and Services Modernization Notice*, 40 FCC Rcd at 5331, 5360-61, paras. 5, 85-89.

²⁹⁸ *See* 47 CFR § 63.71(a)(5)(i).

²⁹⁹ An application is deemed filed on the date the Commission releases a Public Notice of the filing. *Id.* § 63.71(f)(1). The 31-day period thus only begins to run once the Commission releases the Public Notice of the filing of the discontinuance application.

³⁰⁰ *Id.* The Commission first established the dominant/non-dominant distinction in 1980 to “reduce barriers to entry” caused by dominant carriers’ “substantial opportunity and incentive to subsidize the rates for [their] more competitive services with revenues obtained from [their] monopoly or near-monopoly services.” *2016 Technology Transitions Order*, 31 FCC Rcd at 8286-87, para. 10 (quoting *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, First Report and Order, 85 FCC 2d 1, 4, para. 15 (1980)).

³⁰¹ 47 CFR § 63.71(f)(1).

³⁰² *See Network and Services Modernization Notice*, 40 FCC Rcd at 5361, para. 87.

³⁰³ *See* WTA Comments at 3 (generally supporting the Commission's proposals in the *Network and Services Modernization Notice* to streamline discontinuance processes); *see also 2016 Technology Transitions Order*, 31 FCC Rcd at 8290, para. 19 (declaring all carriers to be non-dominant in the provision of interstate switched access service); *Second Wireline Infrastructure Order*, 32 FCC Rcd at 11164, para. 91 (stating that “in light of the technological and competitive dynamics of today’s modern communications landscape, [the Commission] find[s] it unnecessary to maintain a distinction between dominant and non-dominant carriers in the context of section 214 applications to grandfather low speed legacy services”).

³⁰⁴ *See* 47 CFR §§ 63.71(a)(5)(i), (f)(1).

³⁰⁵ *See* AARP Comments at 10; Public Knowledge/CWA Comments at 11; INCOMPAS Mar. 20, 2026 *Ex Parte* Letter at 3.

sufficient for the public to review recent non-dominant carrier applications, including technology transitions discontinuance applications, and assess any changes or disruptions that may occur due to the discontinuance.³⁰⁶ And since 2013, the Commission has received, on average, only 12 dominant carrier discontinuance applications each year, with objections filed with respect to only approximately 10 percent of those applications and only three being removed from streamlined processing and subsequently granted.

87. We thus determine that 31 days will be sufficient time to review dominant carriers' applications as well. Additionally, the Commission retains discretion to remove an application from streamlined processing at any point during the 31-day period should the discontinuance raise concerns.³⁰⁷ This notice requirement and the backstop retained by the Commission ensure adequate review of applications by dominant carriers as the public and carriers are notified of the discontinuance application and have the ability to raise concerns about applications with the Commission before the automatic grant.

88. We decline to adopt USTelecom's request to amend section 63.71(f)(1) to allow the automatic grant period to begin to run upon the carrier's filing of an application rather than after the Commission releases the Public Notice.³⁰⁸ Without the Public Notice, affected customers and other interested parties, such as state regulators, public safety organizations, and public interest groups, would not be able to submit objections in the docket ultimately assigned to the relevant application, thus delaying staff's receipt of those objections.³⁰⁹ This would have the effect of reducing the amount of time available to Bureau staff to review an application for completeness or to determine, as required by statute, whether the application raises concerns regarding the potential impact of the requested discontinuance authorization on the public interest, regardless of whether it receives objections. We find such a potential effect to be unacceptable. However, as discussed above, we direct the Bureau, within ten business days of posting of an application in ECFS, to either contact the applicant to identify deficiencies and request any additional information necessary to make the application complete or to issue a Public Notice of filing of the complete application to ensure timely processing that will support our modernization efforts.³¹⁰

89. We disagree with Bandwidth's assertion that section 63.71 and its automatic grant provisions apply only to retail, loop-side services and not to trunk-side services.³¹¹ In support of its assertion, Bandwidth points to sections 63.500 and 63.501 as the purportedly governing provisions for such services.³¹² However, those provisions simply set forth the content requirements for the formal applications required for the specified types of discontinuances.³¹³ The discontinuance application

³⁰⁶ See AICC Comments at 17 (discussing AICC's participation in AT&T's 2023 discontinuance application); *see generally also* Public Knowledge Comments, WC Docket No. 24-220 (rec. Dec. 2, 2024) (supporting AT&T's first technology transitions discontinuance application relying on the Adequate Replacement Test); *supra* Section III.B.1.a. AICC asks the Commission to "ensure that any streamlining measures preserve adequate time for public safety evaluation and stakeholder response." AICC Comments at 20.

³⁰⁷ See *Network and Services Modernization Notice*, 40 FCC Rcd at 5361, para. 87.

³⁰⁸ See USTelecom Comments at 24.

³⁰⁹ See 47 CFR § 63.71(a)(5) (requiring a carrier to include in its notice to affected customers instructions for filing objections to a planned discontinuance).

³¹⁰ See *supra* Section III.B.1.e.; *see also* Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 5-6.

³¹¹ See Bandwidth Mar. 17, 2026 *Ex Parte* Letter at 1.

³¹² See *id.*

³¹³ See 47 CFR §§ 63.500 (Contents of applications to dismantle or remove a trunk line.), 63.501 (Contents of applications to sever physical connection or to terminate or suspend interchange of traffic with another carrier); *see also* 47 CFR § 63.62 (setting forth the types of service discontinuances requiring formal application "containing the information required by the Commission in the appropriate sections to this part").

procedures, on the other hand, are set forth in section 63.71, and those procedures apply to all formal discontinuance applications³¹⁴ other than emergency discontinuance applications, which are specifically covered by section 63.63.³¹⁵

6. Contents of Discontinuance Applications

90. We revise section 63.71(c) of our rules to consolidate the following content requirements applicable to all discontinuance applications, unless otherwise provided for or otherwise stated herein,³¹⁶ to ensure that Bureau staff have sufficient information before them when evaluating discontinuance applications:³¹⁷ (1) for technology transitions discontinuance applications only, the difference in price, if any, between the service being discontinued and replacement services available in the affected service area;³¹⁸ (2) for technology transitions discontinuance applications only, description of the affected community or part of a community, including the population size and demographics and general characteristics of customers affected; (3) description of replacement services, whether available from the applicant or third parties, that would remain in the affected community or part of the community in the event the application is granted, including the name of any other carrier(s) providing replacement services to the affected community; and (4) statement of the factors otherwise showing that neither the present nor future public convenience and necessity would be adversely affected by the granting of the applications.³¹⁹ And carriers will be required to include in their discontinuance applications a certification, executed by an officer or other authorized representative of the applicant, that the information required by our rules is true and accurate.³²⁰ Our current rules already explicitly require this information for technology transitions discontinuance applications.³²¹ We conclude that this information is necessary for evaluating all discontinuance applications, particularly in this rapidly changing technological environment.

91. As discussed above, pricing differentials between services being discontinued and available replacement services is important for evaluating the affordability of the replacement service.³²²

³¹⁴ See 47 CFR § 63.71 (Procedures for discontinuance, reduction or impairment of service by domestic carriers).

³¹⁵ See *id.* § 63.63 (Emergency discontinuance, reduction, or impairment of service).

³¹⁶ For example, the contents of emergency discontinuance applications are set forth in section 63.63. See 47 CFR § 63.63(a)(1)-(5). And applications to dismantle or remove a trunk line or to sever physical connection or to terminate or suspend interchange of traffic with another carrier must comply with sections 63.500 and 63.501, respectively, of our rules. See *id.* §§ 63.500, 63.501.

³¹⁷ See *Networks and Services Modernization Notice*, 40 FCC Rcd at 5340-41, 5344-45, 5347-49, 5359-60, 5364, 5369, paras. 28-29, 32-33, 39-42, 79-84, 102, 125; see also 47 CFR § 63.602(a)(1) (requiring that a technology transitions discontinuance application include “the contents specified in § 63.505 of this part”).

³¹⁸ See USTelecom Mar. 20, 2026 *Ex Parte* Letter at 5-6 (in response to the public draft of this Order, requesting that the Commission not require pricing differential information in non-technology transitions discontinuance applications).

³¹⁹ See *infra* Appx. A, § 63.71(c); see also USTelecom Mar. 20, 2026 *Ex Parte* Letter at 5 (in response to the public draft of this Order, asking that the Commission confirm that “it is codifying in proposed section 63.71(c)(6)-(8) the type of information that recent successful applications contained”). These content requirements are in addition to those we adopt elsewhere in this Order. See *supra* Sections III.B.1. and III.B.3.

³²⁰ See *infra* Appx. A, § 63.71(c); see also Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 2 n.2 (raising the “need for enforcement where carriers submit false information or proceed recklessly”). Our existing technology transitions discontinuance rules already include this requirement. See 47 CFR § 63.602(a)(4).

³²¹ See 47 CFR § 63.602(a) (requiring a certification regarding the truth and accuracy of the contents of application and incorporating the application content requirements set forth in section 63.505).

³²² See *supra* Section III.B.1.b; see also 2016 *Technology Transitions Order*, 31 FCC Rcd at 8346, para. 174 (noting that “[w]hen called upon to apply [the affordability] standard in the context of technology transitions, the

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And information regarding the affected community, a description of the replacement services that would remain available, and other information relevant to the determination of whether the discontinuance would not adversely affect the public convenience and necessity, the statutory standard, are also important to staff evaluation of discontinuance applications.³²³ Our rules already require that specific types of discontinuance applications, including technology transitions discontinuance applications, include this information.³²⁴ In conjunction with our elimination of section 63.602,³²⁵ which currently sets forth the content requirements for technology transitions discontinuance applications, including the elements of the Adequate Replacement Test, we incorporate these existing requirements for technology transitions discontinuance applications in section 63.71. And the content requirements of sections 63.500, 63.501, and 63.505 remain unchanged. For other types of discontinuances that do not fall within any of these categories, we do not expressly require pricing differential and affected community information.³²⁶ However, in this rapidly changing communications environment, we do extend the requirement that applications to discontinue such services—i.e., not involving “technology transitions” and not covered by sections 63.500, 63.501, and 63.505—include a description of the replacement services that would remain available,³²⁷ other information relevant to the determination of whether the discontinuance would not adversely affect the public convenience and necessity, the statutory standard, and the certification described in the preceding paragraph.³²⁸ As the Commission has repeatedly noted, the adequacy and

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Commission’s focus will be on the price to consumers before and after a discontinuance resulting from transition to a newer technology”); AARP Comments at 3, 6, 9, 12 (expressing concerns regarding affordability of replacement services).

³²³ See, e.g., AARP Comments at 3, 6, 9, 12 (expressing concerns regarding availability of replacement services in rural communities); Center for Regulatory Freedom Comments at 3; NTCA Comments at 6-8; Comtech Reply at 3-4 (addressing concerns regarding 911 connectivity in the context of copper retirements); Intrado Reply at 5-6 (addressing concerns regarding 911 connectivity, particularly in “less well-funded rural areas”); Competitive Carriers Ass’n Reply at 1-3; Center for Regulatory Freedom Comments at 4, 6 (addressing the need for emergency communications safeguards and taking note of “seniors, people with disabilities, and linguistically diverse communities” and the possibility of stranding “isolated rural facilities, critical-access hospitals with legacy equipment, or locations requiring specific accessibility features”); see also generally NTCA Reply; Rural County Representatives of California Reply.

³²⁴ See 47 CFR §§ 63.500, 63.501, 63.505, 63.602.

³²⁵ *Id* § 63.602. Because we are eliminating this provision, we are revising the cross-references to it in sections 63.19(a) and (b). See *id* §§ 63.19(a)-(b).

³²⁶ See USTelecom Mar. 19, 2026 *Ex Parte* Letter at 5 (asserting that providing pricing information in applications to discontinue services not involving a technology transition would be “all but impossible” because “providers typically negotiate rates, terms, and conditions with business data service customers”). We note that applications to discontinue a business data service that supports interconnection trunks or the exchange of traffic remain subject to the content requirements set forth in sections 63.500 and 63.501. See *supra* Sections III.B.3. and III.B.8.b.

³²⁷ For example, a competitive LEC application to discontinue a legacy voice service in a service area where that legacy voice service is still available from the incumbent LEC does not qualify as a technology transitions discontinuance and thus need not comply with the requirements specific to that category of discontinuances. However, competitive LEC applications seeking discontinuance authorization for a legacy voice service still must demonstrate the existence of an adequate replacement service, which in this case would include the legacy voice service available from the incumbent LEC.

³²⁸ See, e.g., AARP Comments at 3, 6, 9, 12 (expressing concerns regarding availability of replacement services in rural communities); Center for Regulatory Freedom Comments at 3; NTCA Comments at 6-8; Comtech Reply at 3-4 (addressing concerns regarding 911 connectivity in the context of copper retirements); Intrado Reply at 5-6 (addressing concerns regarding 911 connectivity, particularly in “less well-funded rural areas”); Competitive Carriers Ass’n Reply at 1-3; Center for Regulatory Freedom Comments at 4, 6 (addressing the need for emergency communications safeguards and taking note of “seniors, people with disabilities, and linguistically diverse communities” and the possibility of stranding “isolated rural facilities, critical-access hospitals with legacy

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availability of replacement services is one of the traditional five factors the Commission considers when determining whether discontinuance of a service to a community or part of a community would adversely affect the current or future public convenience and necessity.³²⁹ Expressly requiring this information will minimize the need for Bureau staff to request from the applicant additional information necessary for their evaluation of applications to discontinue those services,³³⁰ thus making the process more efficient and predictable and, combined with the overall regulatory relief we grant today, should not result in burdensome filing requirements that delay service transitions for consumers.

7. Emergency Discontinuances

92. We adopt our proposal to revise our emergency discontinuance rules³³¹ to explicitly provide that a carrier may permanently discontinue a service a showing that: (1) the carrier has previously obtained emergency discontinuance authority for the service in question, (2) the service is one for which the requesting carrier has had no customers or reasonable requests for service during the 60-day period immediately preceding the permanent discontinuance, and (3) an adequate replacement service is available throughout the affected service area. We decline at this time to allow for streamlined processing of requests to permanently discontinue a service that is contained in an initial emergency discontinuance application.³³²

a. Emergency discontinuances leading to no customers.

93. Section 63.63 of our rules sets forth procedures carriers must follow when seeking authority for an emergency discontinuance.³³³ We now revise that rule to allow carriers to permanently discontinue a service for which the carrier has previously obtained emergency discontinuance authority upon a showing that (1) the service is one for which the requesting carrier has had no customers or reasonable requests for service during the 60 days immediately preceding the permanent discontinuance,

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equipment, or locations requiring specific accessibility features”); *see also generally* NTCA Reply; Rural County Representatives of California Reply. *But see* USTelecom Mar. 19, 2026 *Ex Parte* Letter at 5-6 (asking that the Commission not require non-technology transitions discontinuance applications to include a description of the replacement services that would remain available or other information relevant to the determination of whether the discontinuance would not adversely affect the public convenience and necessity).

³²⁹ *See, e.g., Second Wireline Infrastructure Order*, 33 FCC Rcd at 5665-66, para. 13 n.38; *2016 Technology Transitions Order*, 31 FCC Rcd at 8304, para. 62; *Verizon Tel. Cos. Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation*, 18 FCC Rcd 22737, 22742, para. 8 (2003).

³³⁰ Section 63.71 requires applicants to provide “[a]ny other information the Commission may require.” 47 CFR § 63.71(a)(5). Many carriers already provide the types of information required by our revised requirements in their discontinuance applications in order to paint a fuller picture for Bureau staff and avoid further questions from staff about the proposed discontinuance(s).

³³¹ *Id.* § 63.63.

³³² *See Network and Services Modernization Notice*, 40 FCC Rcd at 5364, para. 101.

³³³ 47 CFR § 63.63. Our rules define an emergency discontinuance as “any discontinuance, reduction, or impairment of the service of a carrier occasioned by conditions beyond the control of such carrier where the original service is not restored or comparable service is not established within a reasonable time.” *Id.* § 63.60(c). Providers must submit an application for authority for an emergency discontinuance of service as soon as practicable but not later than 65 days following the occurrence of the conditions which occasion the discontinuance. *Id.* § 63.63(a). Authority is deemed granted as of the date the request is filed unless the Commission notifies the carrier otherwise on or before the 15th day after the date of filing, and a carrier may request to have the authorization renewed if the conditions leading to the emergency discontinuance “may reasonably be expected to continue for a further period and what efforts the applicant has made to restore the original or establish comparable service of such authority.” The carrier must notify the Commission if “the same or comparable service is reestablished before the termination of the emergency authorization.” *Id.* § 63.63(b).

and (2) an adequate replacement service is available throughout the affected service area.³³⁴ While our proposal in the *Network and Services Modernization Notice* referred to “comparable service,” we find it more appropriate to use the phrase “adequate replacement service” in this instance to confirm that the standards for replacement services are the same for all permanent discontinuances, whether the provider proceeds under section 63.63(b) or section 63.71(g) of our rules.

94. Under our existing rules, carriers may submit an informal request to permanently discontinue a service for which the carrier has already received emergency discontinuance authority, which the Commission may authorize “upon a proper showing.”³³⁵ Our rules do not define what constitutes a “proper showing.” We conclude that the amendment we adopt today, which addresses a narrow set of circumstances, strikes the appropriate balance between safeguarding consumers and enabling carriers to be more deft and responsive in reacting to natural disasters and other emergencies. The amendment also allows carriers to focus their rebuilding efforts on modernized, more resilient networks rather than restoring deteriorating, obsolete legacy networks and services. We find that there is little risk that a permanent discontinuance of the affected service will adversely affect any existing or potential customers in instances where a carrier has previously filed for emergency discontinuance authority, has had no customers nor reasonable requests for service for a minimum of 60 days, and an adequate replacement service is available.³³⁶

95. When legacy voice service facilities are damaged or destroyed during a natural disaster or other event outside the carrier’s control, it may be costly as well as inefficient to require the carriers to restore these legacy facilities, especially in areas where the requesting carrier has had no customers or reasonable requests for service for 60 days prior to the request for permanent discontinuance and where an adequate replacement service is already available. Such an approach also mitigates the risk that consumers in an affected area will be stranded without service. Indeed, the increasing incidences of copper thefts have resulted in emergency discontinuances that leave affected customers without service, sometimes repeatedly.³³⁷ Consumers will also benefit in the long term as this amendment to our rules will

³³⁴ *Network and Services Modernization Notice*, 40 FCC Rcd at 5363, para. 95.

³³⁵ 47 CFR § 63.63(b). *But see* USTelecom Comments at 3 (asserting that the rule we proposed in the *Network and Services Modernization Notice* would “limit the ability to permanently discontinue services only to instances where the carrier no longer has any customers following the emergency discontinuance”).

³³⁶ Contrary to USTelecom’s assertion, *see* USTelecom Comments at 3, when the Commission forbore in the *Second Wireline Infrastructure Order* from applying the discontinuance approval obligations set forth in section 214(a) of the Act and our implementing rules to carriers choosing to discontinue services for which the carrier has had no customers and no reasonable requests for service for at least the immediately preceding 30 days, *see Second Wireline Infrastructure Order*, 33 FCC Rcd at 5666-68, paras. 15-21, it excluded from this forbearance the requirements associated with emergency discontinuances where a carrier’s existing customers are without service for a period of time exceeding 30 days. *See id.* at 5666, para. 15 n.46. By extending the period in which the carrier has had no customers or reasonable requests for the affected service to 60 days and limiting the application of the rule we adopt today to only those areas where an adequate replacement service is available in the affected service area, we believe we have adequately addressed the concerns that prompted this carve-out in the *Second Wireline Infrastructure Order*.

³³⁷ *See, e.g.*, USTelecom Comments at 17-18 (noting, among other things, that “[b]etween June and December 2024, the telecommunications industry reported nearly 6,000 incidents of copper theft and infrastructure vandalism nationwide” and that “[i]n California alone, AT&T has seen a more than 3,500% increase in copper theft incidents from 2020 to 2024”); Rural & Agricultural Council of America Comments at 3 (asking the Commission to “[s]upport rural providers’ efforts to rapidly reconnect customers with new technologies in the event of copper theft/damage”); Matt Daneman, Communications Daily, Cable Industry Launches Coalition to Focus on Network Vandalism (Sept. 4, 2025) (noting that the impact of copper theft “has escalated”), https://communicationsdaily.com/article/view?search_id=42055&id=2458304; Naomi Jindra, Broadband Breakfast, FCC’s Trusty Raises Concerns Over Copper Theft, (Sept. 11, 2025), <https://broadbandbreakfast.com/fccs-trusty-raises-concerns-over-copper-theft/>; Business Wire, Kinetic Offers \$10,000 Reward Following Months of Copper-

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allow carriers to begin building out more reliable and more robust next-generation networks sooner by redirecting money and time that would otherwise be spent making lengthy and costly repairs to vulnerable legacy facilities serving fewer and fewer customers.³³⁸

96. We decline to adopt a commenter's proposal to extend the relevant time period for an emergency discontinuance from 60 days to six months and to require carriers to affirmatively contact each customer during that time to obtain explicit consent prior to any permanent discontinuance.³³⁹ Such requirements would impose burdensome requirements where a comparable service is already available across the affected service area. Additionally, this proposal would require carriers to make repeated attempts to contact consumers who may choose not to respond or who may have permanently relocated during the emergency discontinuance period, and would completely negate any added efficiencies and benefits of this amendment to our rules. The rule we adopt today strikes an appropriate balance between increasing market efficiency and allowing carriers to refocus their efforts away from maintaining vulnerable and unreliable legacy networks. It would also encourage carriers to deploy higher-quality and more resilient next-generation networks and safeguard consumers by ensuring that they are not left stranded without voice service.

b. Processing of requests to permanently discontinue.

97. To ensure the efficacy of the consumer safeguards we adopt in this Order, we decline to allow the streamlined processing of requests in an initial emergency discontinuance application to permanently discontinue the affected service.³⁴⁰ While we are constantly seeking ways to increase efficiency and speed the transition to next-generation networks and services, we find that streamlined processing of a discontinuance request as the result of a natural disaster or other emergency would not allow sufficient time for the Commission to conduct its review, nor for affected consumers and other stakeholders to lodge comments or objections. Instead, we find that the existing procedures for processing requests to permanently discontinue services, as well as the requirements we adopt today where the emergency discontinuance leads to the carrier no longer having customers for the affected service,³⁴¹ strike the correct balance between allowing providers to phase out damaged legacy networks

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Cable Thefts (Jul. 10, 2024), <https://www.businesswire.com/news/home/20240709472141/en/Kinetic-Offers-%2410000-Reward-Following-Months-of-Copper-Cable-Thefts>. Incumbent LECs filed 11 emergency discontinuance applications in 2024 caused by copper thefts, and another 19 in 2025. And the repair processes during the pendency of certain of these emergency discontinuance applications have been impeded by continued copper thefts. *See* USTelecom Comments at 18; *see also* Section 63.63 Application of AT&T Enterprises, LLC, Pacific Bell Tel. Co., SBC Long Distance, LLC for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Discontinue the Provision of Service, Section 63.63 Application of AT&T and Request for Waiver (rec. Sept. 19, 2025) (seeking emergency discontinuance authority resulting from “thousands of criminal acts – repeated and pervasive vandalism and theft” that occurred “throughout Los Angeles County, in some instances impacting the same location multiple times”); Letter from Brett Farley, Sr. Legal Counsel, AT&T, to Marlene Dortch, Secretary, FCC, WC Docket No. 25-294 (filed Nov. 10, 2025) (requesting renewal of its emergency discontinuance authorization, noting that “copper theft continues to be a serious issue in Los Angeles” since the filing of its discontinuance application); Letter from Brett Farley, Sr. Legal Counsel, AT&T, to Marlene Dortch, Secretary, FCC, WC Docket No. 25-294 (filed Jan. 7, 2026) (again requesting renewal of its emergency discontinuance authorization, noting that “copper theft continues to be a serious issue in Los Angeles” since the filing of its emergency discontinuance application).

³³⁸ *See* USTelecom Reply at 17; Digital Progress Inst. Comments at 6-7; Rural & Agricultural Council of America Comments at 2 (asserting that “[e]very dollar forced into copper maintenance is a dollar that could bring next-generation service to another underserved rural home or agricultural business,” and urging the Commission to treat emergency discontinuances caused by copper theft or damage “as opportunities for modernization—rather than triggers for burdensome red tape”).

³³⁹ *See* Public Knowledge/CWA Comments at 17.

³⁴⁰ *See* Network and Services Modernization Notice, 40 FCC Rcd at 5364, para. 101.

and affording customers and other stakeholders sufficient time to be made aware of such discontinuances and to raise objections with the Commission. We reserve the right to revisit this conclusion at a later date, if future circumstances warrant a reconsideration of this finding.

8. Eliminating Outdated Discontinuance Rules

98. We next adopt our proposal in the *Network and Services Modernization Notice* to eliminate a number of outdated discontinuance rules that have outlived their usefulness.³⁴² As proposed in the *Network and Services Modernization Notice*, we conclude that these discontinuance rules are outdated, obsolete, or redundant and are no longer relevant or necessary in today's communications marketplace,³⁴³ with certain exceptions. Commenters support these streamlining efforts.³⁴⁴ Specifically, we eliminate all of the outdated discontinuance rules discussed in the *Network and Services Modernization Notice*,³⁴⁵ except for sections 63.60(f), 63.500, and 63.501.³⁴⁶

a. Eliminated Rules

99. *Public toll stations.* We eliminate section 63.504 of the Commission's rules, which details the contents of an application to close a public toll station where no other such toll station of the applicant will continue service in the community and where telephone toll service is not otherwise available to the public through a telephone exchange connected with the toll lines of a carrier.³⁴⁷ Commenters support this deletion.³⁴⁸ As we stated in the *Network and Services Modernization Notice*, "[t]hese rules were created more than six decades ago, at a time when public toll stations were far more prevalent ... [and] it no longer makes sense to treat applications to discontinue this service distinctly from

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³⁴¹ See *supra* Section III.B.7.b.

³⁴² *Network and Services Modernization Notice*, 40 FCC Rcd at 5364-67, paras. 102-15.

³⁴³ *Id.*

³⁴⁴ See USTelecom Comments at 39 ("USTelecom supports the Commission's proposal to review and eliminate several of its Section 214(a) rules, such as those related to public toll stations, telephone exchanges at military establishments, and trunk lines. As the Commission recognizes, these rules are 'remnants of a bygone era,' and some are duplicative of other statutory requirements. Eliminating such unnecessary hurdles will ensure that any Section 214 application required under the Commission's rules is focused on material that goes to the purpose of Section 214.") (internal citations omitted); Digital Progress Inst. Comments at 8 ("the Commission should adopt its proposals to eliminate outdated discontinuance rules, such as those governing public toll stations, telephone exchanges at military establishments, newspaper publication of notices, trunk lines, and traffic interchange, and public coast stations"); USTelecom Reply at 15-16. *But see* Nina Beety Comments at 14 (asserting that the Commission "hid[] this important topic at the end and confused the public by labeling this as public toll stations without the common term 'phone booths'").

³⁴⁵ See 47 CFR §§ 63.66, 63.90, 63.100, 63.504, 63.601.

³⁴⁶ *Id.* §§ 63.60(b), 63.60(f), 63.500, 63.501.

³⁴⁷ *Id.* § 63.504 (setting forth discontinuance application contents specific to public toll stations). Section 63.60(f) of the Commission's rules defines "public toll station" as "a public telephone station, located in a community, through which a carrier provides service to the public, and which is connected directly to a toll line operated by such carrier." *Id.* § 63.60(f).

³⁴⁸ See USTelecom Comments at 39; Digital Progress Inst. Comments at 8; USTelecom Reply at 15-16. One commenter, however, appears to have misunderstood our proposal to eliminate section 63.504. See Nina Beety Comments at 14 (asserting that the Commission "hid[] this important topic at the end and confused the public by labeling this as public toll stations without the common term 'phone booths.' * * * * In the past, a phone booth would be available outside 24/7, lit up for all to find. Now, the FCC wants to doom those travelers.'"). Discontinuances of public toll stations remain subject to our general discontinuance rules.

other types of service.”³⁴⁹ In order to ensure that a carrier seeks Commission authorization to close a public toll station in a location where telephone toll service is not otherwise available, as contemplated by section 63.62(b) of our rules, we now make applications for the closures of such public toll stations subject to the general application content requirements set forth in section 63.505.³⁵⁰ We thus decline at this time to eliminate section 63.60(f), defining public toll stations for purposes of discontinuance applications.³⁵¹ For these same reasons, we retain the references to public toll stations in section 63.60(b), addressing the types of actions encompassed within the term “discontinuance, reduction, or impairment of service.”³⁵²

100. *Telephone exchanges at military establishments.* We eliminate section 63.66 of the Commission’s rules, which requires that carriers file an informal request, in quintuplicate, with the Commission before altering service hours at telephone exchanges at deactivated military establishments.³⁵³ When Congress amended section 214 of the Act, it was concerned about “loss or impairment of service during” wartime,³⁵⁴ particularly with respect to military establishments and industries.³⁵⁵ That was a very real concern at that time, when POTS was the only voice service widely available.³⁵⁶ However, this is no longer the case. The nation at large and the military specifically have at their disposal voice, email, text, and video communications services provisioned over a variety of mediums, including fiber, wireless, and satellite. Commenters support these streamlining efforts.³⁵⁷ We thus conclude that section 63.66 no longer serves any purpose and should be eliminated.

³⁴⁹ *Network and Services Modernization Notice*, 40 FCC Rcd at 5365, para. 105 (internal citations omitted).

³⁵⁰ See *infra* Appx. A, § 63.505.

³⁵¹ 47 CFR § 63.60(f) (defining “public toll station” as “a public telephone station, located in a community, through which a carrier provides service to the public, and which is connected directly to a toll line operated by such carrier”).

³⁵² *Id.* § 63.60(b).

³⁵³ *Id.* § 63.66.

³⁵⁴ See, e.g., *Network and Services Modernization Notice*, 40 FCC Rcd at 5365, para. 108; *Western Union Discontinuance Order*, 74 F.C.C.2d at 295, para. 6 n.4 (“The focus on a loss or impairment of service is supported by legislative history. At the time Section 214 was amended, Congress also enacted Section 222, which allowed mergers of domestic telegraph companies. The legislative history of this amendment to Section 214 reveals that at the time, one of Congress’ main concerns was that such mergers might result in a loss or impairment of service during this war time period. See 78 Cong. Rec. 818 (1943) (abandonment of existing telegraph offices); S. Rep. No. 13, 78th Cong., 1st Sess. 4 (1943) (reduction of telegraph circuits to the government agencies); and H. Rep. No. 69, 78th Cong., 1st Sess. 10 (1943) (discontinuance of service to military establishments and industries)); see also *Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas*, WC Docket No. 06172, Memorandum Opinion and Order, 22 FCC Rcd 21293, 21294, para. 1 & n.4 (2007) (*2007 Verizon Forbearance Order*). “Dominant carrier regulations include, among other things, requirements arising under section 214 related to transfer of control and discontinuance, cost-supported tariffing requirements, and price regulation for services falling under the Commission’s jurisdiction.” *2007 Verizon Forbearance Order*, 22 FCC Rcd at 21295, para. 2.

³⁵⁵ See *Lincoln Cty. Tel. Sys., Inc., Memorandum Opinion and Order*, 81 F.C.C.2d 328, paras. 11-12 (1980) (citing the legislative history showing that “one of Congress’ main concerns was that . . . mergers might result in a loss or impairment of service during this wartime period”); *Western Union Discontinuance Order*, 74 F.C.C.2d at 295-96, paras. 6-7 & n.4 (same).

³⁵⁶ See, e.g., *Businesses Abandon Plain Old Telephone Service*, Wired (Aug. 23, 2025), <https://www.wirednm.com/wired-blog/businesses-abandon-plain-old-telephone-service> (noting how POTS was the backbone of business communication from its inception in the late 1800s to the advent of digital modes of communication in the 1990s).

³⁵⁷ See, e.g., US Telecom Comments at 39; Digital Progress Inst. Comments at 8.

101. *Publication and posting of notices.* We eliminate section 63.90 of the Commission's rules, imposing extensive requirements regarding the publication and physical posting of notices of discontinuances or reduced hours.³⁵⁸ While the specific requirements of this rule have changed over the years since this rule was adopted to accommodate the evolution of the communications marketplace and consumers' access to a variety of modes of communication,³⁵⁹ we agree with commenters that the physical posting of notices of discontinuances or reduced hours is no longer necessary and that posting the information on a carrier's website is now sufficient notice for network changes.³⁶⁰

102. *Notification of service outage.* We eliminate section 63.100 of our rules, which directs providers to part 4 of the Commission's rules for the requirements concerning notifications of service outages.³⁶¹ The outage notification requirements originally listed in section 63.100 are now found in part 4 of the Commission's rules.³⁶² Commenters support these streamlining efforts.³⁶³ As section 63.100 itself no longer contains any substantive regulations, we conclude that it is no longer relevant or necessary.

103. *Public coast stations.* We eliminate section 63.601, pertaining to public coast stations,³⁶⁴ and remove the references to public coast stations in sections 63.60(b), 63.60(c), and 63.63(a) of our rules.³⁶⁵ As we noted in the *Network and Services Modernization Notice*, the Commission classified public coast stations as part of commercial mobile radio service (CMRS) in 1994, rendering it subject to the forbearance simultaneously granted from section 214 discontinuance requirements for CMRS stations.³⁶⁶ Commenters support these streamlining efforts.³⁶⁷ Any remaining discontinuance obligations pertaining to public coast stations are addressed exclusively elsewhere in our rules.³⁶⁸ We thus find that these rules no longer serve any useful purpose.³⁶⁹

b. Retaining Sections 63.500 and 63.501

³⁵⁸ 47 CFR § 63.90.

³⁵⁹ See *Network and Services Modernization Notice*, 40 FCC Rcd at 5366, para. 111 (discussing changes to notification requirements of 47 CFR § 63.90).

³⁶⁰ See, e.g., WTA Comments at 2-3 ("But given the significant changes over the last 30 years, those regulatory burdens are anachronisms that are unnecessary and counterproductive Posting the information on the service provider's website, and providing notice directly to any interconnected local exchange providers should suffice."); Digital Progress Inst. Comments at 8.

³⁶¹ 47 CFR § 63.100.

³⁶² 47 CFR pt. 4.

³⁶³ See, e.g., USTelecom Comments at 39.

³⁶⁴ 47 CFR § 63.601 (contents of applications for authority to reduce the hours of service of public coast stations under the conditions specified in § 63.70). Public coast stations are "land station[s] in the maritime mobile service" that "offer[] radio communication common carrier services to ship radio stations." *Id.* § 80.5; see also *id.* § 63.60(b)(1).

³⁶⁵ *Id.* §§ 63.60(b)(1)-(2), 63.60(c), 63.63.

³⁶⁶ *Network and Services Modernization Notice*, 40 FCC Rcd at 5368, para. 119; *Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1448, para. 83 (1994), recon. dismissed in part and denied in part, 15 FCC Rcd 5231 (2000) (*CMRS Second Report and Order*); see also 47 CFR §§ 80.5, 80.453.

³⁶⁷ See, e.g., Digital Progress Inst. Comments at 8.

³⁶⁸ See 47 CFR §§ 63.19, 80.5, 80.453; see also *Network and Services Modernization Notice*, 40 FCC Rcd at 5367-68, para. 118.

³⁶⁹ See *Network and Services Modernization Notice*, 40 FCC Rcd at 5368, paras. 119-21.

104. We decline to eliminate sections 63.500 and 63.501 of the Commission's rules at this time.³⁷⁰ Section 63.500 sets forth the required contents of applications to dismantle or remove a trunk line.³⁷¹ Section 63.501 does the same for applications to sever physical connection or to terminate or suspend interchange of traffic with another carrier.³⁷² Given the ongoing network evolution and the ever-decreasing reliance on copper lines, we sought comment in the *Network and Services Modernization Notice* on whether eliminating these rules would better serve the public interest.³⁷³

105. Based on the record in this proceeding, we determine that eliminating sections 63.500 and 63.501 of the Commission's rules is not consistent with the public interest at this time. More specifically, we conclude that eliminating these rules at this time may cause unintended public safety consequences on the provision of 911 service.³⁷⁴ While copper is no longer the dominant transmission medium,³⁷⁵ it remains necessary for local exchange service provider interconnection with incumbent LECs for the provision of 911 service where IP interconnection is unavailable between the incumbent

³⁷⁰ 47 CFR §§ 63.500, 63.501; *see also* Bandwidth Comments at 9; Intrado Comments at 13; INCOMPAS Comments at 6-7. We thus also retain the references to these rules in sections 63.19 and 63.62(a)-(b). *See id.* §§ 63.19, 63.62(a)-(b).

³⁷¹ *Id.* § 63.500.

³⁷² *Id.* § 63.501.

³⁷³ *Network and Services Modernization Notice*, 40 FCC Rcd at 5367, paras. 116-17.

³⁷⁴ *See supra* Section III.B.3; *see also, e.g.*, Intrado Comments at 15 (stating that “eliminating the carrier interconnections requirements in sections 63.500 and 63.501 of [the Commission’s] rules . . . would effectively grant the ILECs unrestricted authority to disconnect 911 trunks without prior Commission approval or pre-planning with the public safety industry – an action that would almost certainly result in a major 911 outage during the ongoing transition to NG911”); INCOMPAS Comments at 6-7 (“Eliminating 63.500 and 63.501 without replacing them with a strong, enforceable interconnection framework would effectively allow ILECs to withdraw essential facilities such as those required for 911 call delivery without public notice, Commission review, or regard for competitive consequences.”); Bandwidth Comments at 7-9 (“The fact that rules 63.500 and 63.501 ‘were adopted at a time when copper was the dominant transmission medium’ does not mean the rules are unnecessary. To the contrary, interconnection of networks is required whether carriers use copper, fiber, or coax and whether TDM or IP protocols are used to exchange voice traffic and deliver emergency calls.”); Intrado Reply at 6-7 (“ILECs should continue to file with the Commission before dismantling a trunk line and suspending the interchange of traffic with another carrier”); Bandwidth Reply at 1 (“Bandwidth urges the Commission to be laser-focused on ensuring that its efforts . . . do not result in adverse consequences for TDM services that remain critical to the exchange of voice traffic and 911 call delivery during the transition period from TDM to IP interconnection and from selective routers to NG911”), 5 (“911 disruptions are already being caused by TDM service discontinuations combined with a lack of alternative routing solutions”); Competitive Carriers Ass’n Reply at 4-5 (“The record continues to show that ILEC refusal to implement fair IP interconnection jeopardizes the reliability of public safety services. Preservation of copper facilities until public safety is ready for next-generation technologies is a critical issue. . . . [A]brupt discontinuance of TDM circuits used for emergency call routing can disrupt service continuity.”). *But see* USTelecom Reply at 15-16 (“These rules are . . . incredibly and unnecessarily burdensome Moreover, other Commission rules and statutory provisions already address any possible concerns about call delivery during technology transitions, including prohibitions on unjust and unreasonable call blocking.”) (internal citations omitted).

³⁷⁵ *See Network and Services Modernization Notice*, 40 FCC Rcd at 5336, para. 19 (“At the end of 2003, the year in which the Commission extended its network change disclosure rules to copper retirements, incumbent LECs provisioned more than 80% of the roughly 181 million reported end-user switched access lines. Since then, reliance on legacy networks in the communications marketplace has drastically decreased, with only 18 million switched access lines by mid-2024 compared to 64.5 million interconnected VoIP subscriptions.”); May 2025 Voice Telephone Services Report at 3 fig. 2; *see also Parties Asked to Refresh the Record on Telephone Access Charges Notice of Proposed Rulemaking*, WC Docket No. 20-71, Public Notice, 40 FCC Rcd 4041 (WCB 2025) (noting that “[o]ver the past five years, local exchange carriers’ market share has declined while mobile and interconnected VoIP providers’ market share has increased”).

LEC and the local exchange service provider.³⁷⁶ We thus defer any potential elimination of these provisions until after we act on the proposed forbearance from the incumbent LEC-specific interconnection and related obligations.³⁷⁷

C. State Mandates Conflicting with the FCC’s Section 214 Discontinuance Authorizations and Authority Are Subject to Preemption

106. We determine below that existing legacy voice services can be jurisdictionally mixed. We then discuss the scope of the Commission’s and the states’ respective authority with respect to regulating the discontinuance of jurisdictionally mixed services. Finally, we determine that, where the Commission has authorized discontinuance of interstate or jurisdictionally mixed legacy voice services, state requirements that make it impossible or impracticable for carriers to discontinue those services—and so in effect require carriers to continue providing interstate or jurisdictionally mixed telecommunications services—conflict with federal law, and the important federal policy represented by our modernized regulatory framework established in this Order for network changes and service discontinuances and are subject to preemption.

107. *Jurisdictional nature of legacy voice service.* Legacy voice service is the transmission of voice communications, usually over copper wires, using circuit-switched technology known as “time-division multiplexing” (TDM).³⁷⁸ Legacy voice service generally includes what is sometimes colloquially described as “local telephone service,” although that term does not accurately reflect the jurisdictional nature of the service as a practical matter in today’s networks. Few, if any, networks today operate on a purely local or even intrastate level.³⁷⁹ Local exchange service and local toll service, while typically occurring within a single state, do in certain instances cross state lines.³⁸⁰ And the vast majority of consumers use the same provider for both their local and long distance service,³⁸¹ with some customers purchasing bundled access that includes local exchange service, local toll calling, and interstate long distance toll service.³⁸² However, these services are provisioned over the same network using the same

³⁷⁶ See *Network and Services Modernization Notice*, 40 FCC Rcd at 5337, para. 20 (stating that “network transitions subject to section 251(c)(5) may occur in areas where 911 authorities and originating service providers . . . have not yet transitioned to Next Generation 911 . . . and will therefore continue for some time to rely on legacy selective routers and other TDM-based infrastructure for delivery of 911 calls to public safety answering points”).

³⁷⁷ See *IP Interconnection Notice* at 17-20, paras. 32-43.

³⁷⁸ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8285, para. 1.

³⁷⁹ See Letter from Nirali Patel, Senior Vice Pres., Regulatory & Legal Affairs and General Counsel, USTelecom, to Marlene H. Dortch, Secretary, FCC WC Docket Nos. 25-208, 25-209, at 8 (filed Feb. 6, 2026) (USTelecom Feb. 6, 2026 *Ex Parte* Letter).

³⁸⁰ See FCC Consumer Guide, *Local, Local Toll and Long Distance Calling*, <https://www.fcc.gov/consumers/guides/local-local-toll-and-long-distance-calling> (last updated Dec. 31, 2019).

³⁸¹ In the past, local exchange carriers were required to provide “equal access” service to long-distance carriers. See *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 196 (D.D.C. 1982), *aff’d sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); see also 47 U.S.C. § 251(g). “Equal access” refers to a class of service whereby all long-distance service providers receive equivalent connections to the local exchange carrier’s network. See Common Carrier Bureau Releases Report on Equal Access Lines and Presubscribed Lines, 1997 WL 677407 (C.C.B. Nov. 3, 1997). Recognizing transformations in the market for voice telephone services, the Commission in 2019 forbore from “the requirement that independent rate-of-return carriers offer long-distance telephone service through a separate affiliate.” *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*, WC Docket No. 18-141, Memorandum Opinion and Order, 34 FCC Rcd 2590, 2591, para. 1 (2019).

³⁸² See FCC Consumer Guide, *Local, Local Toll and Long Distance Calling*, <https://www.fcc.gov/consumers/guides/local-local-toll-and-long-distance-calling> (last updated Dec. 31, 2019).

technology.³⁸³ We acknowledge that, in the *2016 Technology Transitions Order*, the Commission stated that “wholly intrastate services such as local telephone service are excluded from [the] reach” of the Commission’s section 214 discontinuance authority.³⁸⁴ Insofar as that statement might be understood to suggest that legacy voice service is a purely intrastate service, we find that the Commission in 2016 did not consider how state requirements might, on a practical level, prevent or conflict with the discontinuance of interstate or jurisdictionally mixed services.

108. *Federal discontinuance authority under section 214.* Section 214 authorizes the Commission to determine when interstate or jurisdictionally mixed telecommunications services may be discontinued. The Commission has recognized that Congress enacted section 214 to “protect Americans’ continued access to the nation’s communications networks while also preserving carriers’ ability to upgrade their services without the interruption of federal micromanaging.”³⁸⁵ Section 214 thus does not guarantee that a particular service, such as legacy voice service, remains available to consumers or that consumers can purchase a particular service from a particular carrier. Rather, section 214 seeks to ensure that consumers retain access to vital communications services, regardless of the identity of the service provider.³⁸⁶ Under section 214(a), except on a temporary or emergency basis, “[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community,” without first “obtain[ing] from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby,”³⁸⁷ and section 214(c) allows the Commission to tailor the scope of the discontinuance it authorizes “as in its judgment the public convenience and necessity may require.”³⁸⁸ Once the Commission authorizes discontinuance, a carrier may discontinue the covered service “without securing [other] approval.”³⁸⁹ Section 214 thus creates an exclusively federal discontinuance regime for interstate or jurisdictionally mixed telecommunications services.

109. The federal discontinuance regime established in section 214(a)-(c) is consistent with the framework for the designation and relinquishment of eligible telecommunications carrier (ETC) status set out in section 214(e), including section 214(e)(4)’s mandate that a state commission permit an ETC to relinquish its designation if the area is served by at least one other ETC.³⁹⁰ Section 214(e) governs the approval and relinquishment of designations for common carriers that are eligible for universal service

³⁸³ To the extent that USTelecom argues that *all* POTS offerings are jurisdictionally mixed services, we reject that conclusion. See USTelecom Feb. 6, 2026 *Ex Parte* Letter at 9. The Commission will consider on a case-by-case basis whether certain legacy voice services are interstate or jurisdictionally mixed.

³⁸⁴ *2016 Technology Transitions Order*, 31 FCC Rcd at 8301, para. 52.

³⁸⁵ *First Wireline Infrastructure Order*, 32 FCC Rcd at 11177, para. 133.

³⁸⁶ See *Western Union Discontinuance Order*, 74 F.C.C.2d at 295, para. 6 and n.4 (discussing legislative history surrounding 1943 amendment to section 214(a) adding discontinuance requirements); USTelecom Feb. 6, 2026 *Ex Parte* Letter at 5; see also 47 U.S.C. § 214(e)(4); *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996*; *Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, CC Docket No. 97-11, AAD File No. 98-43, Report and Order in CC Docket No. 97-11, Second Memorandum Opinion and Order in AAD File No. 98-43, 14 FCC Rcd 11364, 11368, para. 5 (1999); USTelecom Comments at 27; USTelecom Feb. 6, 2026 *Ex Parte* Letter at 5.

³⁸⁷ 47 U.S.C. § 214(a).

³⁸⁸ *Id.* § 214(c).

³⁸⁹ *Id.*

³⁹⁰ See 47 U.S.C. § 214(e)(4) (providing that “[a] State commission (or the Commission in the case of a common carrier designated under paragraph (6)) *shall permit* an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier”) (emphasis added).

support pursuant to section 254(e).³⁹¹ There is nothing in the language of section 214(e) that supersedes or limits the federal processes established pursuant to section 214(a)-(c) with regard to service discontinuance. Thus, while a carrier's ETC status determines whether that carrier may receive universal service support for the provisioning, maintenance, and upgrading of particular facilities or services under section 254(e), the question of whether a carrier may discontinue a specific interstate service is wholly governed by section 214(a)-(c) and the carrier need only show in its advance notice to the relevant state commission that the affected service area is "served by more than one eligible telecommunications carrier."³⁹²

110. *State authority.* Section 214 provides states with a limited role in the federal discontinuance regime, but that role does not provide states with additional authority over services for which a provider has obtained Commission approval for discontinuance. Section 214(b) requires a carrier to notify each state in which the carrier proposes to construct, acquire, or operate a line or proposes to discontinue, reduce, or impair a service, and grants those states "the right . . . to be heard."³⁹³ This provision allows states to object to any federal discontinuance application prior to any Commission authorization.³⁹⁴ But it is the Commission that has sole jurisdiction to decide whether a carrier's proposed discontinuance adversely affects the public convenience and necessity and whether it should be approved or rejected.³⁹⁵ In section 214(c), Congress gave both states and state public utility commissions (PUCs) the right to bring a federal court action to enjoin any discontinuance of service that occurs "contrary to the provisions of" section 214.³⁹⁶ This provision allows states to bring suit in federal court to enjoin discontinuance if discontinuing a service would be in violation of, or without, a Commission authorization.³⁹⁷ But section 214(c) does not grant states the right to obtain federal court injunctions against discontinuances that are lawfully granted by the Commission. Accordingly, neither section 214(b) nor section 214(c) provides states with the power to decide whether a carrier may discontinue interstate or jurisdictionally mixed service, or empowers states to impose requirements that frustrate or add extra conditions to Commission decisions allowing discontinuance. Instead, Congress provided that, after obtaining the Commission's approval, carriers could "without securing approval other than such certificate . . . proceed with the discontinuance . . . of service."³⁹⁸

111. We find that section 253(b) of the Act similarly does not provide states with additional authority over services for which a provider has obtained discontinuance approval at the federal level. Section 253(b) provides a safe harbor from preemption under section 253(a) when states "impose, on a competitively neutral basis . . . , requirements necessary to preserve and advance universal service, protect

³⁹¹ See *id.* §§ 214(e)(1), 254(e).

³⁹² *Id.* § 214(e)(4).

³⁹³ *Id.* § 214(b).

³⁹⁴ Such a grant of an "explicit consultative role . . . works against, rather than for, [any] claim of other powers" by states in the context of service discontinuance. *Verizon New Eng., Inc. v. Me. Pub. Utils. Comm'n*, 509 F.3d 1, 7 (1st Cir. 2007) (discussing the similar state consultative role under section 271); see also *BellSouth Telecomms., Inc. v. Ky. Pub. Serv. Comm'n*, 669 F.3d 704, 709 (6th Cir. 2012) (state commission cannot "'parlay its limited role' in making recommendations to the FCC" under section 271 into authority to regulate).

³⁹⁵ 47 U.S.C. § 214(c); see also Letter from Craig J. Miller, Pres., The New York State Telecomms. Ass'n, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-209, 25-208, at 1 (filed Mar. 19, 2026) (NYSTA Mar. 19, 2026 *Ex Parte* Letter).

³⁹⁶ 47 U.S.C. § 214(c).

³⁹⁷ Even if a state has obtained an injunction in federal court to prevent a carrier from discontinuing service, the basis for that injunction is "evaporated" once the carrier obtains Commission authorization for the discontinuance. See *Cablevision of Tex. III, L.P. v. Okla. W. Tel. Co.*, 993 F.2d 208, 210 (10th Cir. 1993).

³⁹⁸ See 47 U.S.C. § 214(c).

the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.”³⁹⁹ Two commenters argue that section 253(b) thus preserves several COLR obligations.⁴⁰⁰ To the extent these commenters suggest that section 253(b) gives states discontinuance authority over interstate services or jurisdictionally mixed services, we disagree. While section 253(b) does offer states a safe harbor from the reach of the Commission’s section 253 preemption authority, the safe harbor is limited on its face to the provisions of section 253 itself. As stated in section 253(b), “[n]othing in this section”—i.e., in section 253—“shall affect the ability of states” to exercise the rights enumerated therein.⁴⁰¹ We find the safe harbor for the states in section 253 does not confer authority over services that have received federal approval for discontinuance under section 214.

112. *State requirements subject to preemption.* As explained below, once the Commission has authorized a carrier to discontinue an interstate or jurisdictionally mixed telecommunications service, states may not enforce any law, regulation, or other requirement that on its face or in practical terms requires the carrier to continue providing the interstate or jurisdictionally mixed service the Commission has authorized the carrier to discontinue. States may not, consistent with federal law, impose any additional conditions on the Commission’s authorization of discontinuance, including conditions that purport to be technology neutral,⁴⁰² but that have the practical effect of requiring the carrier to continue providing an interstate or jurisdictionally mixed telecommunications service.⁴⁰³

113. It is well established that, under the “impossibility exception” to state jurisdiction, the Commission may preempt state law when (1) it is impossible or impracticable to regulate the intrastate aspects of a service without affecting interstate communications and (2) the Commission determines that such regulation would interfere with federal regulatory objectives.⁴⁰⁴ More generally, under the U.S. Constitution, federal law is the “supreme Law of the Land.”⁴⁰⁵ As relevant here, state law is subject to conflict preemption if it “prevent[s] or frustrate[s] the accomplishment of a federal objective,”⁴⁰⁶ and Commission actions taken under statutory authority will preempt state law.⁴⁰⁷ The doctrine of “conflict

³⁹⁹ 47 U.S.C. § 253(b).

⁴⁰⁰ NASUCA Comments at 25-26; Pennsylvania PUC Comments at 4-5.

⁴⁰¹ 47 U.S.C. § 253(b) (emphasis added).

⁴⁰² See, e.g., California PUC Reply at 2-5, 17.

⁴⁰³ See USTelecom Comments at 12-15; USTelecom Reply at 26-32; USTelecom Mar. 19, 2026 *Ex Parte* Letter at 4. Since we do not have the record before us to, in this Order, opine on the application of this preemption to any specific state law, we decline to do so—including to exempt any specific state law or category of state law from the reach of this Order. *But see* Public Knowledge Mar. 16, 2026 *Ex Parte* Letter at 7 (in response to the public draft of this Order, “urges the Commission to modify its language on preemption to take advantage of the added resources of the states and to avoid unnecessary interference in state consumer protection, universal service, and 911 oversight”).

⁴⁰⁴ See *Minnesota PUC v. FCC*, 483 F.3d 570, 578 (8th Cir. 2007) (*Minnesota PUC v. FCC*); see also *Louisiana Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 375 n.4 (1986) (*Louisiana PSC v. FCC*) (collecting cases); *Public Serv. Comm’n of Md. v. FCC*, 909 F.2d 1510, 1516 (D.C. Cir. 1990) (*PSC of Maryland v. FCC*).

⁴⁰⁵ U.S. Const. art. VI, cl. 2.

⁴⁰⁶ *Geier v. Am. Honda Motor Co.*, 529 U.S. 861, 873 (2000); see, e.g., *Capital Cities Cable, Inc. v. Crisp*, 467 U.S. 691, 708 (1984) (*Capital Cities Cable v. Crisp*) (FCC’s cable TV regulations preempted Oklahoma’s alcohol-advertising ban that was “wholly at odds with the regulatory goals contemplated by the FCC”); *Qwest Corp. v. Ariz. Corp. Comm’n*, 567 F.3d 1109, 1119-20 (9th Cir. 2009) (*Qwest v. Arizona Corp. Comm’n*) (FCC rules preempted states from imposing unbundling requirements on telephone providers).

⁴⁰⁷ See *City of New York v. FCC*, 486 U.S. 57, 64 (1988). We disagree with the California Public Utilities Commission’s (California PUC) assertion that only an “unmistakably clear” statement in the Act could allow the Commission to preempt state statutes, regulations, and other legal requirements that require a carrier to continue providing a service for which the Commission has already granted discontinuance authorization. See California

(continued....)

preemption—true to its name—[applies] when the operation of federal and state law clash in a way that makes ‘compliance with both state and federal law . . . impossible,’ or when ‘state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.’”⁴⁰⁸

114. We determine that certain state and local statutes, regulations, and requirements are subject to federal preemption. We sought comment in the *Network and Services Modernization Notice* on state or local requirements that would inhibit or impede the transition to next-generation networks and services, and asked whether such requirements would conflict with this critical goal by, for example, compelling carriers to continue providing legacy voice service or preventing carriers from discontinuing service.⁴⁰⁹ The record indicates that some states have adopted requirements that carriers assert operate to prevent them from discontinuing legacy voice service—whether as a matter of law or in practical effect.⁴¹⁰ The record also includes assertions that certain state or local statutes, regulations, or requirements have the effect of preventing carriers from seeking to retire deteriorating legacy networks and discontinuing outdated TDM-based services taken by ever-fewer customers for undetermined periods of time, leaving these providers unable to redirect time and resources away from the development and deployment of next-generation networks and technologies.⁴¹¹ We agree with USTelecom that, where the Commission has exercised its section 214 discontinuance authority over interstate and/or jurisdictionally mixed services to allow a carrier to discontinue legacy voice service, state requirements that operate to require the carrier to continue providing those services conflict with federal law. Such state or local statutes, regulations, or legal requirements effectively “negate the Commission’s exercise of its lawful authority because regulation of the interstate aspects of the matter cannot be severed from regulation of the intrastate aspects.”⁴¹² We conclude that if state and local requirements prevent a provider from

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PUC Reply at 11-12. As stated above, we find that the clear language of section 214 creates a federal regime for determining when a carrier may discontinue an interstate or jurisdictionally mixed telecommunications service.

⁴⁰⁸ *Sickle v. Torres Advanced Enter. Solutions, LLC*, 884 F.3d 338, 347 (D.C. Cir. 2018) (quoting *Oneok, Inc. v. Learjet, Inc.*, 575 U.S. 373, 377 (2015) (internal quotation marks omitted)); see also *Capital Cities Cable v. Crisp*, 467 U.S. at 708 (FCC’s cable TV regulations preempted Oklahoma’s alcohol-advertising ban that was “wholly at odds with the regulatory goals contemplated by the FCC”); *Qwest Corp. v. Ariz. Corp. Comm’n*, 567 F.3d at 1119-20 (FCC rules preempted states from imposing unbundling requirements on telephone providers).

⁴⁰⁹ *Network and Services Modernization Notice*, 40 FCC Rcd at 5369, para. 125.

⁴¹⁰ See USTelecom Comments at 12-15; USTelecom Reply at 26-32; USTelecom Feb. 6, 2026 *Ex Parte* Letter at 1 n.3 (citing examples); USTelecom Mar. 19, 2026 *Ex Parte* Letter at 1-4 (asserting that states may be misapplying section 214(e)(4) of the Act in a manner that prevents them from discontinuing POTS and thus from relinquishing their ETC designation).

⁴¹¹ See USTelecom Comments at 27, 30-32; Letter from Nirali Patel, Senior Vice Pres., Regulatory & Legal Affairs and General Counsel, USTelecom, to Marlene H. Dortch, Secretary, FCC WC Docket Nos. 25-208, 25-209, at 1 (filed Feb. 6, 2026) (USTelecom Feb. 6, 2026 *Ex Parte* Letter); NYSTA Mar. 19, 2026 *Ex Parte* Letter at 1-2.

⁴¹² *Implementation of the Telecommunications Act of 1996 et al.*, CC Docket Nos. 96-115 and 96-149, Second Report and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 8061, 8075, para. 16 (1998); see also U.S. Const. art. VI, cl. 2 (Supremacy Clause); 47 U.S.C. § 214(c); USTelecom Comments at 28-30 (identifying state COLR regulations as an example of state and local regulations that negate the relief that carriers would otherwise receive from the Commission through the section 214 discontinuance process by obligating carriers to maintain a network capable of providing POTS to all locations, even in areas where the Commission has authorized carriers to discontinue POTS); Rural & Agriculture Council of America Comments at 3; U.S. Chamber of Commerce Comments at 3; Taxpayers Protection Alliance Comments at 2. *But see* California PUC Comments at 2-12 (contending that the state’s COLR rules do not require providers to retain copper infrastructure or POTS); Rural County Representatives of California (RCRC) Comments at 2 (stating that “some states may still require a modest baseline for minimum access service via COLR obligations”); Pennsylvania PUC Comments at 3-6 (stating that the Pennsylvania PUC does not review or approve carriers’ technology transitions—whether in terms of a COLR

(continued....)

discontinuing the interstate portion of a legacy voice service for which the Commission has already granted discontinuance authorization pursuant to section 214, then the requirements negate a valid federal regulatory objective because the interstate impacts of the state or local requirements cannot be unbundled from the intrastate aspects of those requirements.⁴¹³ We stress that states lack authority to regulate interstate services. And, moreover, where the Commission has lawfully exercised its section 214 authority to allow discontinuance of a service within its regulatory sphere, section 214(c) expressly provides that carriers do not require any other “approval” to discontinue the covered service, including any state commission or Commission approval that might otherwise be required under section 214(e)(4) for relinquishment of the carrier’s ETC status, if there is another ETC throughout the relevant service area.⁴¹⁴ We determine here that any such state requirements, to the degree they regulate services shown to be jurisdictionally mixed, are subject to preemption pursuant to both the impossibility exception and general principles of conflict preemption.⁴¹⁵

115. It is beyond the scope of this proceeding to evaluate individual state requirements in their particulars, or to determine whether they conflict with federal law. We accordingly do not, in this Order, make any preemption determination as to any specific state or local law or requirement. If, however, the Commission has authorized a carrier to discontinue legacy voice service and any state requirement conflicts with that authorization, or if a carrier wants to seek Commission discontinuance authorization for a legacy voice service but that carrier believes that a state requirement prevents it from doing so, the carrier may opt to seek a determination from the Commission that the state requirement is preempted.

(Continued from previous page)

obligation or as an abandonment of service—and that a full ban on all COLR obligations could encompass a wide swathe of legitimate Pennsylvania PUC regulatory activities); USTelecom Feb. 6, 2026 *Ex Parte* Letter at 2.

⁴¹³ See *Mozilla Corp. v. FCC*, 940 F.3d 1, 77-78 (D.C. Cir. 2019); *Minnesota PUC v. FCC*, 483 F.3d at 578 (“It was proper for the FCC to consider the economic burden of identifying the geographic endpoints of VoIP communications in determining whether it was impractical or impossible to separate the service into its interstate and intrastate components.”); *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, Memorandum Opinion and Order, 19 FCC Rcd 22404, 22413, 22414, 22429, paras. 17, 19, 40 (2004); *Incarcerated People’s Communications Services; Implementation of the Martha Wright-Reed Act Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62, 12-375, 39 FCC Rcd 7647, 7691, 7926, paras. 85-86, 536 (2024); *Rural Call Completion*, WC Docket No. 13-39, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154, 16204, para. 119 (2013) (finding that it would be impractical and infeasible to have separate federal and state rules about ring signals having different meanings for interstate versus intrastate traffic, and stating that the Commission had reached similar conclusions with regard to call signaling requirements for caller ID purposes—that it would be impractical to require separate federal and state signaling systems) (citing *Louisiana PSC v. FCC*, 476 U.S. at 375 n.4); see also generally *North Carolina Utils. Comm’n v. FCC*, 537 F.2d 787 (4th Cir. 1976); *North Carolina Utils. Comm’n v. FCC*, 552 F.2d 1036 (4th Cir. 1977) (where the Commission acted within its authority to permit subscribers to provide their own telephones, preemption of inconsistent state regulation prohibiting subscribers from connecting their own phones unless used exclusively in interstate service upheld since state regulation would negate the federal tariff)).

⁴¹⁴ See USTelecom Mar. 20, 2026 *Ex Parte* Letter at 2-3. As discussed elsewhere in this Order, the Commission will deny a discontinuance application if it finds that the discontinuance will adversely affect the present or future public convenience and necessity, as required by section 214(a) of the Act. 47 U.S.C. § 214(a). If a state commission believes that a carrier’s discontinuance of a service for which it has requested Commission authorization would have such an adverse effect, the state may file an objection with the Commission. Moreover, after a carrier receives a discontinuance grant from the Commission and makes a showing to the relevant state commission that another ETC serves the affected service area, section 214(e)(4) requires the state to allow the carrier to relinquish its ETC designation without erecting additional hurdles.

⁴¹⁵ Similarly, where the Commission has exercised its section 214(a) authority over interstate and/or jurisdictionally mixed service to allow a carrier to grandfather legacy voice service, see *supra* Section III.B.2, federal law preempts state requirements that operate to require the carrier to continue offering that interstate or jurisdictionally mixed grandfathered service to new customers.

IV. PROCEDURAL MATTERS

116. *Paperwork Reduction Act.* This document may contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Specifically, the rules adopted in 47 CFR §§ 51.329, 51.333, 63.60, 63.62(a)-(b), (d), 63.63, 63.66, 63.71, 63.90, 63.100, 63.504, 63.601, and 63.602 may require new or modified information collections. All such new or modified information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In this document, we describe several steps we have taken to minimize the information collection burdens on small entities.⁴¹⁶

117. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),⁴¹⁷ requires that an agency prepare a regulatory flexibility analysis for notice-and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”⁴¹⁸ Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Fourth Report and Order on small entities. The FRFA is set forth in Appendix B.

118. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

V. ORDERING CLAUSES

119. Accordingly, IT IS ORDERED that pursuant to sections 1-4, 10, 201(b), 214(a)-(c), 251(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-54, 160, 201(b), 214(a)-(c), 251(c)(5), the Report and Order hereby IS ADOPTED.⁴¹⁹

120. IT IS FURTHER ORDERED that the Commission’s rules ARE HEREBY AMENDED as set forth in Appendix A and such amendments shall become effective 30 days after publication in the Federal Register, except that the amendments to sections 51.329, 51.333, 63.60, 63.62(a)-(b), (d)-(e), 63.63, 63.71, and 63.602, which may contain new or modified information collection requirements, will not become effective until the Office of Management and Budget completes review of any information collection requirements that the Wireline Competition Bureau determines is required under the Paperwork Reduction Act. The Commission directs the Wireline Competition Bureau to announce the effective date for sections 51.329, 51.333, 63.60, 63.62(a)-(b), (d)-(e), 63.63, 63.71, and 63.602 by subsequent Public Notice.

121. IT IS FURTHER ORDERED that, pursuant to 47 CFR § 1.4(b)(1), the period for filing petitions for reconsideration or petitions for judicial review of this Report and Order will commence on

⁴¹⁶ *See infra* Appx. B, Section E.

⁴¹⁷ 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, 110 Stat. 857 (1996).

⁴¹⁸ 5 U.S.C. § 605(b).

⁴¹⁹ Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).

the date that a summary of this Report and Order is published in the Federal Register.

122. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

123. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Evaluation and Records Management, SHALL SEND a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Final Rules

For the reasons set forth above, Parts 51 and 63 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 51 – INTERCONNECTION

1. The authority for part 51 continues to read as follows:

AUTHORITY: 47 U.S.C. 151-55, 201-05, 207-09, 218, 225-27, 251-52, 271, 332 unless otherwise noted.

2. Amend § 51.329 by removing paragraph (c), and revising paragraph (a) as follows:

§ 51.329 Notice of network changes: Methods for providing notice.

(a) An incumbent LEC may provide the required notice to the public of network changes through publicly accessible industry fora, industry publications, or the incumbent LEC's website.

* * * * *

3. Amend § 51.333 by removing paragraphs (b) through (f) and (g)(1)(iii), redesignating paragraph (g)(1)(i) and (ii) and (g)(1)(iv) and (v) as paragraph (b)(1)(i) through (iv), and revising section heading, paragraph (a), and redesignated paragraph (b)(2)(i) and (ii), as follows:

§ 51.333 Notice of network changes: Short-term network changes and copper retirement.

(a) **Direct notice.** If an incumbent LEC wishes to provide less than six months' notice of planned network changes, or provide notice of a planned copper retirement, the incumbent LEC must serve a copy of its public notice upon each telephone exchange service provider that directly interconnects with the incumbent LEC's network, 911 service providers, and directly interconnecting local exchange service providers that support essential functions within 911 networks in the affected service areas, provided that, with respect to copper retirement notices, such service may be made by postings on the incumbent LEC's website if the directly interconnecting telephone exchange service provider has agreed to receive notice by website postings. For purposes of this section, "911 service provider" is defined as an entity that provides 911, E911, or NG911 capabilities such as call routing, automatic location information, automatic number identification, or the functional equivalent of those capabilities, directly to a public safety answering point (PSAP), statewide default answering point, or appropriate local emergency authority as defined in § 9.3; and/or operates one or more central offices that directly serve a PSAP.

(1) An incumbent LEC must provide the required direct notice of a short-term network change at least 10 days prior to implementation.

(2) An incumbent LEC must provide direct notice of a planned copper retirement at least 90 days prior to implementation, except that it must provide direct notice of a planned copper retirement involving copper facilities not being used to provision services to any customers at least 15 days prior to implementation.

(b) Limited exemption from advance notice and timing requirements –

* * *

(2) Other events outside an incumbent LEC's control.

(i) Notwithstanding the requirements of this section, if in response to circumstances outside of its control other than a force majeure event addressed in paragraph (b)(1) of this section, an incumbent LEC cannot comply with the timing requirement set forth in paragraph (a), hereinafter referred to as the waiting period, the incumbent LEC must give notice of the network change as soon as practicable.

(ii) A short-term network change or copper retirement notice subject to paragraph (b)(2) of this section must include a brief explanation of the circumstances necessitating the reduced waiting period and how

the incumbent LEC intends to minimize the impact of the reduced waiting period on directly interconnected telephone exchange service providers.

* * *

PART 63 – EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

1. The authority for part 63 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

2. Amend § 63.19 by revising paragraphs (a) and (b), as follows:

§ 63.19 Special procedures for discontinuances of international services.

(a) With the exception of those international carriers described in paragraphs (b) and (c) of this section, any international carrier that seeks to discontinue, reduce, or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines, shall be subject to the following procedures in lieu of those specified in §§ 63.61 through 63.505: * * *

(b) The following procedures shall apply to any international carrier that the Commission has classified as dominant in the provision of a particular international service because the carrier possesses market power in the provision of that service on the U.S. end of the route. Any such carrier that seeks to retire international facilities, dismantle or remove international trunk lines, but does not discontinue, reduce or impair the dominant services being provided through these facilities, shall only be subject to the notification requirements of paragraph (a) of this section. If such carrier discontinues, reduces or impairs the dominant service, or retires facilities that impair or reduce the service, the carrier shall file an application pursuant to §§ 63.62 and 63.505.

* * * * *

3. Amend § 63.60 by revising paragraphs (a), (b)(1) and (2), (c), and (g), as follows:

§ 63.60 Definitions.

(a) For the purposes of §§ 63.60 through 63.71, the term “carrier,” when used to refer either to all telecommunications carriers or more specifically to non-dominant telecommunications carriers, shall include interconnected VoIP providers.

(b) *Discontinuance, reduction, or impairment of service* includes, but is not limited to the following:

(1) The closure by a carrier of a telephone exchange rendering interstate or foreign telephone toll service, or a public toll station serving a community or part of a community;

(2) The reduction in hours of service by a carrier at a telephone exchange rendering interstate or foreign telephone toll service or at any public toll station (except at a toll station at which the availability of service to the public during any specific hours is subject to the control of the agent or other persons controlling the premises on which such office or toll station is located and is not subject to the control of such carrier); the term *reduction in hours of service* does not include a shift in hours which does not result in any reduction in the number of hours of service;

(c) *Emergency discontinuance, reduction, or impairment of service* means any discontinuance, reduction, or impairment of the service of a carrier occasioned by conditions beyond the control of such carrier where the original service is not restored or comparable service is not established within a reasonable time. For the purpose of this part, a reasonable time shall be deemed to be a period not in excess of 60 days.

* * * * *

(g) For the purposes of §§ 63.60 through 63.71, the term “service,” when used to refer to a real-time, two-way voice communications service, shall include interconnected VoIP service as that term is defined in § 9.3 of this chapter but shall not include any interconnected VoIP service that is a “mobile service” as defined in § 20.3 of this chapter.

* * * * *

4. Amend § 63.62 by revising the introductory text and paragraphs (a) and (b), and (d), as follows:

§ 63.62 Type of discontinuance, reduction, or impairment of telephone service requiring formal application.

Authority for the following types of discontinuance, reduction, or impairment of service shall be requested by formal application containing the information required by the Commission in the appropriate sections to this part, including § 63.505, or in emergency cases (as defined in § 63.60(b)) as provided in § 63.63:

(a) The dismantling or removal of a trunk line (for contents of application see §§ 63.71 & 63.500) for all domestic carriers and for dominant international carriers except as modified in § 63.19;

(b) The severance of physical connection or the termination or suspension of the interchange of traffic with another carrier (for contents of application see §§ 63.71 & 63.501);

* * * * *

(d) The closure of a public toll station where no other such toll station of the applicant in the community will continue service (for contents of application, see § 63.505): *Provided, however,* That no application shall be required under this part with respect to the closure of a toll station located in a community where telephone toll service is otherwise available to the public through a telephone exchange connected with the toll lines of a carrier;

* * * * *

5. Amend § 63.63 by revising paragraphs (a) and (b), as follows:

§ 63.63 Emergency discontinuance, reduction or impairment of service.

(a) Application for authority for emergency discontinuance, reduction, or impairment of service shall be made by electronically filing an informal request through the “Submit a Non-Docketed Filing” module of the Commission's Electronic Comment Filing System. Such requests shall be made as soon as practicable but not later than 65 days after the occurrence of the conditions which have occasioned the discontinuance, reduction, or impairment. The request shall make reference to this section and show the following:

* * *

(b) Authority for the emergency discontinuance, reduction, or impairment of service for a period of 60 days shall be deemed to have been granted by the Commission effective as of the date of the filing of the request unless, on or before the 15th day after the date of filing, the Commission shall notify the carrier to the contrary. Renewal of such authority may be requested by letter, filed with the Commission not later than 10 days prior to the expiration of such 60-day period, making reference to this section and showing that such conditions may reasonably be expected to continue for a further period and what efforts the applicant has made to restore the original or establish comparable service. If the same or comparable service is reestablished before the termination of the emergency authorization, the carrier shall notify the Commission promptly. However, the Commission may, upon specific request of the carrier and upon a proper showing, contained in such informal request or in the initial application, authorize such discontinuance, reduction, or impairment of service for an indefinite period or permanently. In addition, the carrier may permanently discontinue, reduce, or impair a service for which it has received authority for emergency discontinuance, reduction, or impairment upon a showing that (1) it has had no customers or reasonable requests for service during the 60-day period immediately preceding the discontinuance,

and (2) an adequate replacement service is available throughout the affected service area.

§ 63.66 [Removed and Reserved]

6. Remove and reserve § 63.66.
7. Amend § 63.71 by:
 - a. Revising paragraph (a)(5) and removing paragraph (a)(6);
 - b. Removing paragraph (c)(4), redesignating paragraphs (c)(2), (c)(3), and (c)(5) as paragraphs (c)(3), (c)(4), and (c)(9);
 - c. Adding new paragraphs (c)(2) and (c)(5) through (8);
 - d. Revising paragraphs (f)(1) and (2);
 - e. Removing paragraphs (h) and (l) and redesignating paragraphs (i), (j) and (k) as paragraphs (h), (i) and (j), respectively;
 - f. Revising newly redesignated paragraphs (h) and (j); and
 - g. Adding new paragraph (k).

The revisions and additions read as follows:

§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers.

(a) * * *

(5) (i) The following statement: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(ii) For discontinuances involving technology transitions, as defined in § 63.60(i): In addition to the statement required by paragraph (5)(i) of this section, (A) specific information as to how a customer who wants to object to or comment on the proposed discontinuance of service will be able to do so, including but not limited to providing the master docket number established by the Wireline Competition Bureau for such objections and comments and the webpage(s) identified by the Wireline Competition Bureau for further guidance and resources to file an objection or comment.

* * * * *

(c) * * *

(2) For technology transitions discontinuance applications, as defined in § 63.60(i):

- (i) Statement identifying the application as involving a technology transition;
- (ii) Statement of the difference in price, if any, between the service being discontinued and replacement services available in the affected service area; and
- (iii) Brief description of the affected community or part of a community, including the population size and any relevant characteristics of the customer population affected;

* * * * *

(5) Brief description of replacement services, whether available from the applicant or third parties, that would remain in the affected community or part of the affected community in the event the application is granted, including the name of any other carrier(s) providing replacement services to the affected community, and where in the affected community those services are available;

(6) Statement of the factors otherwise showing that neither the present nor future public convenience and necessity would be adversely affected by the granting of the application;

(7) For applications to discontinue a service supporting interconnection trunks or the exchange of traffic, in addition to the requirements set forth in §§ 63.500 and 63.501 of this chapter:

(i) Specific identity of the type of service to be discontinued in addition to any branded name of the service being discontinued;

(ii) Statement that at least 90 days prior to the planned discontinuance, the carrier provided a designated point of contact with authority to facilitate the orderly transition from legacy facilities that support 911 to the 911 Authorities, as defined in § 9.28 of this chapter, 911 service providers, and local exchange service providers that support essential functions within 911 networks in the affected service area. For purposes of this section, “911 service provider” is defined as an entity that provides 911, E911, or NG911 capabilities such as call routing, automatic location information, automatic number identification, or the functional equivalent of those capabilities, directly to a public safety answering point (PSAP), statewide default answering point, or appropriate local emergency authority as defined in § 9.3; and/or operates one or more central offices that directly serve a PSAP; and

(iii) List of the 911 Authorities, 911 service provider, and local exchange service providers that support essential functions within 911 networks in the affected service areas with which the carrier has coordinated and the date(s) of that coordination;

(8) A certification, executed by an officer or other authorized representative of the applicant and meeting the requirements of § 1.16 of this chapter, that the information required by this section is true and accurate; and

* * * * *

(f)

(1) The application to discontinue, reduce, or impair service that does not constitute a technology transition or, if constituting a technology transition, meets the requirements of paragraph (f)(2) of this section, shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective. For purposes of this section, an application will be deemed filed on the date the Commission releases public notice of the filing.

(2) An application to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(i), may be automatically granted only if the applicant certifies that in every location throughout the affected service area, at least one of the following types of services is available:

(i) a facilities-based interconnected VoIP service, as defined in § 9.3 of this chapter;

(ii) a facilities-based mobile wireless service operating at speeds of at least 5 Mbps download and 1 Mbps upload, consistent with the coverage parameters set forth in § 1.7004(c)(3) of this chapter;

(iii) a voice service offered pursuant to an obligation from one of the Commission’s modernized high-cost support programs;

(iv) a voice service already available from the applicant in the affected service area that the applicant certifies offers substantially similar levels of network performance and availability as the legacy voice

service being discontinued based on the applicant's own internal network testing in connection with rolling out a new product or service, provides access to 911 and complies with applicable 911 requirements in part 9 of this title, and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network or any successor network that utilizes numbers issued pursuant to the North American Numbering Plan and supports access to 911 and complies with applicable 911 requirements in part 9 of this title; or

(v) a widely available alternative service offered by a third party that the applicant certifies offers substantially similar levels of network performance and availability as the legacy voice service being discontinued, and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network or any successor network that utilizes numbers issued pursuant to the North American Numbering Plan and supports access to 911 and complies with applicable 911 requirements in part 9 of this title.

* * * * *

(h) An application to discontinue, reduce, or impair a service filed by a competitive local exchange carrier in response to a copper retirement notice provided pursuant to § 51.333 of this chapter shall be automatically granted on the effective date of the copper retirement; provided that:

(1) The competitive local exchange carrier submits the application to the Commission for filing at least 40 days prior to the copper retirement effective date; and

(2) The application includes a certification, executed by an officer or other authorized representative of the applicant and meeting the requirements of § 1.16 of this chapter, that the copper retirement is the basis for the application and that the applicant has notified and coordinated with all 911 Authorities as defined in § 9.28 of this chapter with jurisdiction within the affected service area.

* * * * *

(j) Notwithstanding any other provision of this section, a carrier is not required to file an application to grandfather a legacy voice service, lower-speed data service, or interconnected VoIP service provisioned over copper wire; however, it must provide notice to existing customers that it is grandfathering a service they current receive from that carrier. Such notice shall include (i) an approximate date by which it intends to seek to permanently discontinue the service, and (ii) a statement regarding alternative services available in the affected service area. For purposes of this rule, we define "lower-speed data service" as a data service operating at speeds below 25 Mbps download and 3 Mbps upload.

(k) Notwithstanding any other provision of this section, where a wholesale provider is engaging in a technology transitions discontinuance of a legacy voice service resold by another provider, the reseller is not required to file an application to discontinue the resold service, except that the reseller must provide notice to its customers, as soon as practicable, that it will no longer be able to provide the relevant legacy voice service. Such notice shall be via any means to which the customer has previously provided express, verifiable approval. Notice shall include the following:

- (1) Name and address of carrier;
- (2) Date of planned service discontinuance, reduction or impairment;
- (3) Points of geographic areas of service affected;
- (4) Brief description of type of service affected; and
- (5) Statement regarding the availability of alternative services in the affected service area.

§§ 63.90, 63.100, 63.504, 63.601, and 63.602 [Removed and Reserved]

8. Remove and reserve §§ 63.90, 63.100, 63.504, 63.601, and 63.602.

APPENDIX B

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA)¹ the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Network and Services Modernization Notice (Notice)* released in 2025.² The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA.³ No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the Federal Register.⁴

A. Need for, and Objectives of, the Rules

1. In the *Report and Order (Order)*, the Commission takes important steps aimed at bringing the existing regulatory environment in line with today's communications marketplace by overhauling the Commission's rules applicable to technology transitions discontinuance applications under section 214 of the Communications Act of 1934, as amended (the Act),⁵ and reforming and updating the filing requirements associated with its rules implementing section 251(c)(5)'s network change disclosure mandate.⁶ Specifically, within the *Order*, the Commission: (1) eliminates the filing requirements associated with our rules implementing section 251(c)(5)'s network change disclosure mandate;⁷ (2) adopts one consolidated rule applicable to all technology transitions discontinuance applications and eliminates rule provisions thereby rendered irrelevant; (3) grants blanket section 214(a) authority for carriers to grandfather legacy voice services, lower-speed data telecommunications services, and interconnected VoIP service provisioned over copper wire; (4) grants forbearance relief to resellers when the wholesale provider of their resold service engages in a technology transitions discontinuance; (5) revises section 63.71 of its rules to apply the 31-day automatic grant period to all discontinuance applications regardless of the applicants' status as dominant or non-dominant;⁸ (5) adopts discontinuance application content requirements; (6) revises its rules applicable to emergency discontinuances to permit permanent discontinuance of a service under specific circumstances;⁹ (7) eliminates a number of outdated discontinuance rules rendered irrelevant or redundant by today's communications marketplace;¹⁰ and (8) finds any state or local statute, regulation, or other legal requirement that—either by law or in practice—has the effect of continuing to require carriers to provide POTS or other legacy services in an area where carriers have obtained Commission authorization under section 214(a) of the Act to discontinue the legacy service in question or where carriers have been discouraged from seeking such Commission authorization are subject to preemption.

¹ 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

² *Reducing Barriers to Network Improvements and Service Changes; Accelerating Network Modernization*, WC Docket Nos. 25-208, 25-209, Notice of Proposed Rulemaking, 40 FCC Rcd 5329 (2025) (*Network and Services Modernization Notice*).

³ *Network and Services Modernization Notice*, 40 FCC Rcd at Appx. B.

⁴ 5 U.S.C. § 604.

⁵ See 47 U.S.C. § 214(a); 47 CFR §§ 63.60 *et seq.*

⁶ See 47 U.S.C. § 251(c)(5); 47 CFR §§ 51.325 *et seq.*

⁷ See 47 U.S.C. § 251(c)(5); 47 CFR §§ 51.325 *et seq.*

⁸ 47 CFR § 63.71(f)(1).

⁹ 47 CFR § 63.63.

¹⁰ See 47 CFR §§ 63.60(f), 63.66, 63.90, 63.100, 63.500, 63.501, 63.504, 63.601.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

2. There were no comments raised that specifically addressed the proposed rules and policies presented in the *Notice*. However, the Commission considered the potential impact of the rules proposed in the IRFA on small entities and took steps where appropriate and feasible to reduce the compliance burden for small entities in order to reduce the economic impact of the rules enacted herein on such entities.

C. Response to Comments by the Chief Counsel for the Small Business Administration Office of Advocacy

3. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA,¹¹ the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and to provide a detailed statement of any change made to the proposed rules as a result of those comments.¹² The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the adopted rules.¹³ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹⁴ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act (SBA).¹⁵ A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.¹⁶ The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.¹⁷

5. These actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by these actions.¹⁸ In general, a small business is an independent business having fewer than 500 employees.¹⁹ These types of small businesses represent 99.9% of all businesses in the United States,

¹¹ Small Business Jobs Act of 2010, Pub. L. No. 111-240, 124 Stat. 2504 (2010).

¹² 5 U.S.C. § 604(a)(3).

¹³ *Id.* § 604.

¹⁴ *Id.* § 601(6).

¹⁵ *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

¹⁶ 15 U.S.C. § 632.

¹⁷ 13 CFR § 121.903.

¹⁸ 5 U.S.C. § 601(3)-(6).

¹⁹ See SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* (July 23, 2024), https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf.

which translates to 34.75 million businesses.²⁰ Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and are not dominant in their field.²¹

6. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.²² Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand.²³ Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.²⁴

7. The rule reforms and modifications adopted in the *Order* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS)²⁵ codes and corresponding SBA size standard.²⁶ Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the adopted rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the identified industries below.

Table 1. 2022 U.S. Census Bureau Data by NAICS Code

Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA Size Standard	Total Firms²⁷	Total Small Firms²⁸	% Small Firms
Wired Telecommunications	517111	1,500 employees	3,403	3,027	88.95%

²⁰ *Id.*

²¹ 5 U.S.C. § 601(4).

²² See SBA, Office of Advocacy, *Small Business Facts, Spotlight on Nonprofits* (July 2019), <https://advocacy.sba.gov/2019/07/25/small-business-facts-spotlight-on-nonprofits/>.

²³ 5 U.S.C. § 601(5).

²⁴ See U.S. Census Bureau, 2022 Census of Governments –Organization, <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>, tables 1-11.

²⁵ The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. See www.census.gov/NAICS for further details regarding the NAICS codes identified in this chart.

²⁶ The size standards in this chart are set forth in 13 CFR 121.201, by six digit NAICS code.

²⁷ U.S. Census Bureau, “Selected Sectors: Employment Size of Firms for the U.S.: 2022.” Economic Census, ECN Core Statistics Economic Census: Establishment and Firm Size Statistics for the U.S., Table EC2200SIZEEMPfirm, 2025, and “Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2022.” Economic Census, ECN Core Statistics Economic Census: Establishment and Firm Size Statistics for the U.S., Table EC2200SIZEREFfirm, 2025.

²⁸ *Id.*

Carriers ²⁹					
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees	1,184	1,081	91.30%
Telecommunications Resellers ³⁰	517121	1,500 employees	955	847	88.69%
Satellite Telecommunications	517410	\$44 million	332	195	58.73%
All Other Telecommunications	517810	\$40 million	1,673	1,007	60.19%

Table 2. Telecommunications Service Provider Data

Affected Entity	SBA Size Standard (1500 Employees)		
	Total # FCC Form 499A Filers	Small Firms	% Small Entities
Cable/Coax CLEC	67	62	92.54
Competitive Local Exchange Carriers (CLECs) ³²	3,729	3,576	95.90
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	917	78.04
Interexchange Carriers (IXCs)	113	95	84.07
Local Exchange Carriers (LECs) ³³	4,904	4,493	91.62
Local Resellers	222	217	97.75
Other Toll Carriers	74	71	95.95
Prepaid Card Providers	47	47	100.00

²⁹ Affected Entities in this industry include Cable System Operators (Telecom Act Standard), Competitive Local Exchange Carriers (CLECs), Incumbent Local Exchange Carriers (Incumbent LECs), Interexchange Carriers (IXCs), Local Exchange Carriers (LECs), and Other Toll Carriers.

³⁰ Affected Entities in this industry include Local Resellers, Prepaid Calling Card Providers, and Toll Resellers.

³¹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), <https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf>.

³² Affected Entities in this industry include all reporting local competitive service providers.

³³ Affected Entities in this industry include all reporting fixed local service providers (CLECs & ILECs).

2024 Universal Service Monitoring Report Telecommunications Service Provider Data ³¹ (Data as of December 2023)	SBA Size Standard (1500 Employees)		
	Affected Entity	Total # FCC Form 499A Filers	Small Firms % Small Entities
	Toll Resellers	411	398 96.84
	Wired Telecommunications Carriers ³⁴	4,682	4,276 91.33
	Wireless Telecommunications Carriers (except Satellite) ³⁵	585	498 85.13

E. Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

8. The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.³⁶

9. In the *Order*, the Commission reforms and modifies its existing rules applicable to discontinuance applications under section 214 of the Act³⁷ generally and as to technology transitions discontinuance applications specifically, as well as the filing requirements associated with its rules implementing section 251(c)(5)'s network change disclosure mandate.³⁸ The Commission minimized the burdens associated with any new reporting, recordkeeping, or compliance requirements adopted in the *Order*, which are aimed at ensuring 911 continuity and that consumers are sufficiently protected. The Commission anticipates the approaches taken in these rule modernization efforts will have minimal cost implications because the reporting, recordkeeping and compliance requirements that remain after these reforms and updates already exist. We do not expect any additional burdens for small businesses entities.

10. In determining the economic impact and projected compliance requirements for small and other entities, the Commission sought comment on the costs and benefits associated with the proposals made in the in the *Order*. As discussed above, several comments were filed related to small entities. The Commission finds that the reforms adopted in the *Order* will expedite the Commission's existing discontinuance process without imposing any additional burdens.

11. We estimate that the rule changes discussed in the *Order* will result in a reduction in the time and expense associated with filing petitions and will not result in significant, material changes to reporting, recordkeeping, or compliance obligations for small and other Commission licensees. Additional resources or personnel should not be required to fulfill these requirements because all affected

³⁴ Local Resellers fall into another U.S. Census Bureau industry (Telecommunications Resellers) and therefore data for these providers is not included in this industry.

³⁵ Affected Entities in this industry include all reporting wireless carriers and service providers.

³⁶ 5 U.S.C. § 604(a)(5).

³⁷ See *Order* Section III.B.

³⁸ See *Order* Section III.A.

providers should already be familiar with these procedures, as they are required to comply with existing Commission regulations.

12. After reviewing the record, we received no concerns about unique burdens from small businesses that would be impacted by the modifications adopted in the *Order* and proposed in the *Further Notice*. The Commission believes these revisions will make its rules more transparent and accessible to small entities and reduce the time and cost associated with its discontinuance requirements. As a result, we cannot estimate the cost of complying with the rules, or compare such costs for small and other entities.

13. In addition, we received no concerns about unique burdens from small businesses that would be impacted by the new certifications adopted in the *Order*. As such, we do not have sufficient information on the record to determine whether small entities will be required to hire professionals to comply with its decisions or to quantify the cost of compliance for small entities.

F. Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

14. The RFA requires an agency to provide “a description of the steps the agency has taken to minimize the significant economic impact on small entities. . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”³⁹

15. The Commission sought comment on whether any of the burdens associated with the filing, recordkeeping and reporting requirements described in the *Order* could be minimized for small entities. As discussed above, the Commission minimized the burdens associated with any new reporting, recordkeeping, or compliance requirements adopted, which are aimed at ensuring 911 continuity and that consumers are sufficiently protected. As such, the Commission finds that the costs associated with the adopted rules and clarifications are likely minimal as a result of the anticipated decrease in filing burdens as well as through the elimination of outdated discontinuance rules. Thus, the Commission anticipates that the approaches it has taken to implement these reforms and updates will have minimal reporting, recordkeeping, or other compliance requirements or costs. We do not expect any additional burdens for small businesses entities.

G. Report to Congress

16. The Commission will send a copy of the *Order*, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act.⁴⁰ In addition, the Commission will send a copy of the *Order*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA and will publish a copy of the will publish a copy of the *Order*, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the Federal Register.⁴¹

³⁹ 5 U.S.C. § 604(b).

⁴⁰ 5 U.S.C. § 801(a)(1)(A).

⁴¹ *Id.* § 604(b).

**STATEMENT OF
CHAIRMAN BRENDAN CARR**

Re: *Reducing Barriers to Network Improvements and Service Changes; Accelerating Network Modernization*, WC Docket Nos. 25-209; 25-208, Report & Order (March 26, 2026).

Today's decision marks an important step in accelerating America's transition to modern, high-speed networks. For too long, outdated rules and regulations have forced providers to maintain aging copper infrastructure and to keep consumers on broken, antiquated networks. And this has come at a high cost. One provider alone reports that they have been spending about \$6 billion a year maintaining copper lines for a dwindling number of consumers. That changes today. This vote effectively frees up those billions of dollars so that Americans can benefit from an upgrade to the types of modern, high-speed networks that they want and need.

At the same time, we take a balanced approach that protects consumers and preserves access to critical services like 911. Our updated rules ensure that Americans will still have reliable access to the voice services they rely on for public safety communications and everyday communications alike. And at prices that remain comparable to what they pay today. In other words, we are advancing modernized networks while making sure no one is left behind.

Today's item also sends a clear signal. Bad actors cannot use outdated state and local requirements to undermine the federal policies the FCC codifies today. Requirements that would leave communities stuck on aging copper will be preempted so that Americans in every community benefits from new investments and next-gen networks.

I want to thank the FCC staff whose hard work made today's item possible, including Michele Berlove, Marie Bordelon, Jodie Griffin, Rhonda Lien, John Visclosky, Jodie May, Joseph Calascione, Malena Barzilai, Sarah Citrin, David Furth, and Rachel Waxman. And thank you to all of you that have driven progress on our network modernization efforts over the last year.

**STATEMENT OF
COMMISSIONER ANNA M. GOMEZ**

Re: *Reducing Barriers to Network Improvements and Service Changes; Accelerating Network and Service Modernization*, WC Docket Nos. 25-209 and 25-208, Report and Order (March 26, 2026).

Today the Commission takes a meaningful step in modernizing our regulatory framework for the transition away from legacy copper telephone networks to IP-based services.

Our nation's copper infrastructure is aging, costly to maintain, and increasingly vulnerable to theft and natural disaster. The future is IP-based, and our rules should facilitate, not obstruct, carriers' ability to build it.

I also want to recognize that this proceeding generated a serious and substantive record. Carriers, public safety advocates, rural providers, competitive carriers, and consumer organizations each engaged with the hard questions this transition raises. The Commission is better for that engagement, and it shows in this Order. I am pleased to support this item, and I want to thank the Chairman for his willingness to work collaboratively to strengthen the public safety, consumer, and competition safeguards in it.

The transition from legacy copper to IP-based services is not a uniform experience. Those who are most affected are often in rural, remote, tribal, and low-income communities, where alternatives are least mature and the consequences of a gap in service are most severe.

Getting the public safety, consumer protection, and competition pieces right matters enormously, and I am pleased that after working through some of our requested edits, this Order strikes the right balance between moving the transition forward, protecting our nation's 911 network, which has special considerations as the states migrate to next generation 911 services, fostering a robust and competitive market for the services that will replace legacy voice, and ensuring no one is left without a path forward when their service changes.

One concrete example of our collaboration with the Chair's office is worth highlighting. This Order now establishes a centralized docket where consumers can file objections and track concerns related to service discontinuances, and it requires carriers to include notice of that docket and how to access it when notifying customers of a planned discontinuance. It also directs the relevant bureaus to update consumer-facing pages on the Commission's website so that people know how to use the docket, how to file, and how to access the express filing process.

That is a practical, meaningful step. A consumer who receives notice that their existing phone service is going away should also receive clear information about where to go if something goes wrong. This Order now ensures that. Of course, we recognize that not all consumers have ready access to the internet or the resources to navigate these processes on their own. With our assistance, we hope that consumer advocates, community organizations, and state and local partners will help ensure that those consumers are also able to make their voices heard.

I also want to recognize the important role that states play in protecting consumers, safeguarding public safety, and combating fraud. States are often the first line of defense for consumers navigating problems with their communications services, and their authority in these areas is not diminished by today's action. The preemption framework adopted here is appropriately scoped to the discontinuance of interstate and jurisdictionally mixed services, and does not reach state consumer protection laws, state universal service obligations, or state authority over 911 service.

That is the right line to draw. The Commission has seen firsthand how powerful the federal and state partnership can be, including through our memoranda of understanding with state attorneys general

to combat illegal robocalls. That same spirit of partnership will be essential as this transition unfolds, and I look forward to continuing to build on it.

I want to thank the Chairman for the collaborative process through which we were able to work together to ensure consumers are not left behind as this transition unfolds.

And I also want to express my sincere appreciation to the Wireline Competition Bureau for their careful and thorough work on a genuinely complex rulemaking, and for their time walking me and my staff through our questions. I look forward to continuing this work together.

**STATEMENT OF
COMMISSIONER OLIVIA TRUSTY**

Re: *Reducing Barriers to Network Improvements and Service Changes; Accelerating Network and Service Modernization*, WC Docket Nos. 25-209 and 25-208, Report and Order (March 26, 2026).

Like few other areas of communications policy, the IP transition brings together a range of issues, including: connectivity, innovation, public safety, and consumer protection. Addressing any one aspect requires the Commission to remain mindful of the broader ecosystem. Even as we look to the future, and the foundation for advanced technologies, like artificial intelligence, that same principle applies, requiring a focus on sustained innovation, robust and resilient connectivity, and a commonsense approach to regulation. That is the balance the Commission is striving to achieve in the IP transition.

This approach, sometimes described as “smart deregulation,” involves removing outdated or unduly burdensome requirements that hinder the deployment of advanced communications services, while preserving core protections for consumers, public safety, and national security.

Building on the Wireline Competition Bureau’s initial efforts, this item provides greater clarity and predictability for service providers navigating technology transitions, while preserving opportunities for stakeholders to raise concerns in the rare cases where issues may arise.

I appreciate this item highlighting the tools Americans rely upon to access emergency assistance, foremost among them, the ability to call 911. As networks evolve, ensuring reliable 911 connectivity must remain a top priority. I am pleased this item takes steps to require coordination with 911 authorities and key service providers before a service discontinuance request is filed, helping to keep public safety front of mind throughout the transition.

The IP transition holds tremendous promise for consumers and will position the United States to lead globally in new communications technologies and services. As we move from legacy networks to next-generation infrastructure, protecting existing consumer interests along the way is key to expanding our innovation capacity and delivering the economic benefits of these technology developments to all Americans. I look forward to continuing to work with Commission staff, industry, and stakeholders to strike the right balance. And I thank the Wireline Competition Bureau for their hard work on this important item.

EXHIBIT F



California Public
Utilities Commission



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R2406012

Carrier of Last Resort and Network Modernization Staff Proposal (R.24-06-012)

Communications Division

December 2025

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Carrier of Last Resort and Network Modernization

Communications Division Staff Proposal

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Executive Summary

The principle of universal service stems from the commitment that all Californians, no matter where they live, should have access to essential communications services to advance public safety by keeping the public connected. California's commitment to Universal Service started in 1994 through Assembly Bill (AB) 3643 with the legislative intent to ensure widespread availability of high-quality communications services to all Californians. Universal service principles of access, reliability, quality and affordability commitments are now codified in Public Utilities Code Section 709.

Though California's commitment to universal service preceded efforts at the federal level to encourage consumer choice in the communications industry, as embodied in the federal Telecommunications Act of 1996, there continues to be an explicit commitment to preserve universal service. Universal service principles include rules related to Carrier of Last Resort or COLR obligations to serve Californians. The Communications Division (CD) of the California Public Utilities Commission (Commission or CPUC) has carried out a detailed analysis of current COLR rules consistent with Commission Rulemaking (R.) 24-06-012. This CD staff proposal (Staff Proposal) does not change the designation nor definition of what companies are currently designated as a COLR in California. However, this Staff Proposal provides the below recommendations to modernize access to essential service and replace the current existing COLR obligations and requirements with the following:

- The definition of Basic Service should be updated to Modernized Essential Service that includes five elements:
 1. A voice-grade reliable¹ connection enabling two-way voice calls across all distances through the Public Switched Telephone Network (PSTN) at a simple rate clearly articulated on the company's website.²
 2. Offer California LifeLine³ service for bundled voice and broadband service or standalone broadband service for eligible customers.

¹ Voice over Internet Protocol (VoIP) offered as a component of Modernized Essential Service must also include the opportunity for customers to obtain Customer Premise Equipment from the COLR capable of 72 hours of backup power.

² CD Staff recommend remaining vigilant regarding the terms and conditions and pricing practices of providers of Modernized Essential Service. COLRs must submit a Tier 2 Advice Letter (AL) to the Commission for approval detailing the terms and conditions of the Modernized Essential Service. COLRs that continue to offer Basic Service must continue to comply with CPUC tariff requirements.

³ The California LifeLine program provides a discount for voice and broadband service for eligible consumers: <https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/lifeline>

3. Free access to emergency services through 911, including all successor versions of the 911 systems such as Enhanced 911 or Next Generation 911.
 4. Free access to California Relay Service.
 5. Free access to Toll-Free 800 and 8YY numbers, as well as all 3-digit public services such as 211, 311, and 988.
- The Commission's COLR rules should deliver essential communications services that Californians need and rely on, and COLR rules should be modernized to ensure every Californian continues to have access to essential communications services in the interest of public safety and keeping Californians connected.
 - California consumers have varying degrees of choice in communications service provider(s) where they live.
 - **Significant Consumer Choice** includes areas where there are 2+ Qualified Providers, excluding the COLR –OR- 1 Qualified Provider excluding the COLR plus ubiquitous reliable coverage by 2 facilities-based mobile providers (subject to proof of service). Additionally, at least 1 wireless LifeLine provider and 1 wireline LifeLine provider, excluding the COLR, must be present to meet this standard.
 - **Limited Consumer Choice** includes areas that do not meet the definition of Significant Consumer Choice such as where only the COLR offers wireline service –OR- 1 Qualified Provider, excluding the COLR, plus ubiquitous reliable coverage by fewer than 2 facilities-based mobile providers (subject to proof of service).
 - COLR obligations may not be necessary in certain parts of California where consumers have Significant Consumer Choice to obtain essential service and remain connected. Section IV of this Staff Proposal provides a detailed application process for COLR obligations withdrawal with clear and detailed benchmarks a COLR must meet.
 - COLR obligations remain necessary in parts of California where there is Limited Consumer Choice to obtain essential communications services. Section II of this Staff Proposal provides updates to COLR obligations for existing COLRs that reflects the requirement to continue to provide basic service for up to five years following a decision, after which COLRs would be required to offer Modernized Essential Services.
 - Where COLR obligations remain, a COLR may choose a path to be relieved of COLR obligations by (1) identifying another COLR to take over its obligations, or (2) on its

own accord, committing to modernizing its existing network to bring it up to date in delivering today's baseline essential communications services and continuing to provide essential services for no less than 15 years.

I. Background

Legal and Procedural Context

Historically in the United States, private companies owned nearly all telephone networks but were regulated as public utilities because they provided an essential public service. Each state designated an incumbent local telephone company for a given geographic area, and, in exchange for agreeing to serve all customers in that region at affordable rates as a carrier of last resort (COLR), the government allowed the company to earn a reasonable return.⁴ COLR obligations required incumbent telephone companies to build out facilities and provide basic telephone service to all locations in its service territory, including remote locations where per line costs were above average. To offset the higher costs, government subsidized service with high-cost funds.

At one point, every state had its own version of COLR obligations for telephone service, and over time states either modified those obligations or abandoned them completely on account of competition or the perception of competition. More recently, state legislatures have shifted their focus from telecom deregulation to modernizing communications networks through broadband deployment and adoption programs.

Carriers of last resort in the telecommunications context generally have the following obligations, among others:

- Provide Basic Service to all customers within their designated territory, including remote locations.
- Obtain approval from the state before being relieved of those obligations.
- Charge prices that are just and reasonable.
- Serve as an eligible telecommunications carrier to offer federal Lifeline.
- Meet service quality standards.

COLRs are obligated to ensure customers have access to critical communications services, including 911, Lifeline, and relay services, among others. Following the passage of the Telecommunications Act of 1996, some states assigned COLR obligations to competitive carriers, either in addition to the incumbent carrier or as a replacement for the incumbent. The Act retained its commitment to the principle of universal service⁵ stating:

“(1) Quality and rates

⁴ Nuechterlein, Jonathan, and Philip Weiser, *Digital Crossroads: Telecommunications Law and Policy in the Internet Age (Second Edition)*. July 2013. Page 33.

⁵ 47 U.S.C. § 254

Quality services should be available at just, reasonable, and affordable rates.

(2) Access to advanced services

Access to advanced telecommunications and information services should be provided in all regions of the Nation.

(3) Access in rural and high-cost areas

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”

Universal Service Commitment

Universal service is the principle of ensuring that no Californian is excluded from access to essential communications services. Though California’s commitment to universal service precedes moves at the federal and state levels to encourage competition and consumer choice in telecommunications markets that were embodied in the federal Telecommunications Act of 1996, the transition to telecommunications competition and consumer choice required a renewed and explicit commitment to preserve universal service. As industry experts Jonathan Nuechterlein and Philip Weiser observed, the transition to this new paradigm “seemed to dispense with the natural-monopoly premise,” or the notion that consumer needs could be optimally and efficiently met by a single provider granted monopoly status to serve a given area in exchange for direct regulation of rates and underlying service, but “Congress could not repeal the laws of economics...[and] in many settings, it remained commercially infeasible for new wireline competitors to build brand-new telephone networks bridging the last mile to all of their subscribers’ buildings.”⁶

Accordingly, in seeking to modernize state policy in light of the new federal paradigm in telecommunications regulation and new technological developments in telecommunications services that have continued in the intervening years, the California state legislature codified an intent for the state and the California Public Utilities Commission (CPUC or Commission) to pursue universal service and ensure widespread availability of high-quality essential communications services to all Californians regardless

⁶ *Ibid.*, 12.

of geography, race, income, disability status, or any other consideration, guided by core principles of access, reliability, quality and affordability commitments.⁷

Carrier of Last Resort (COLR) obligations are an important part of achieving universal service because these obligations legally require COLR companies to offer and provide basic service to all customers in the company's service territory that requests it. The CPUC adopted the rules governing COLR obligations and an associated definition of basic service in 1996,⁸ subsequently updating the basic service definition and confirming the COLR framework as a critical element of ensuring universal service in 2012.⁹ A map of the current COLRs in California is shown in Attachment B.

The communications marketplace has undergone significant transformation since enactment of the federal Telecommunications Act of 1996, which emphasized consumer choice. Even in the advancement of communications services and changes in the industry, the concept of universal service prevails and the continuation for COLR obligations remain in California. The level of customer choice varies by community, and while some Californians may have the opportunity to choose between communications service providers, many Californians have either limited or no choice in providers for reliable, modern, essential communications services. This is especially true for Californians in communities that communications service providers on their own determine that it less profitable to serve, such as rural or low-income communities, or for those who rely on accessibility services, such as California Relay Service or California LifeLine.

Carrier of Last Resort Rules in California

Following the passage of the Telecommunications Act of 1996, the CPUC issued D.96-10-066, which adopted final rules on how universal service would be carried out in California as the local exchange telephone markets were opened to competing carriers. The primary goal was to ensure that residential basic telephone service would be available throughout the state at affordable rates. Today, California has 16 COLRs that are required to provide basic service to any customer in the COLR's service territory that requests it. See Attachment B to this Staff Proposal for a list and map of California's COLRs.

⁷ This commitment is codified as Public Utilities (Pub. Util.) Code 709, in addition to other areas of statute and Commission precedent.

⁸ Decision (D.) 96-10-066, October 25, 1996, p. 424; issued in Rulemaking (R.) 95-01-020 and Investigation (I.) 95-01-021.

⁹ D. 12-12-038, December 24, 2012, p. 54-55; issued in R. 09-06-019.

On March 3, 2023, Pacific Bell Telephone Company d/b/a/ AT&T California (AT&T) filed an application for relief from its COLR obligation in most of the company's service territory.¹⁰ The Commission's COLR withdrawal rules, which were adopted in Decision (D.) 96-10-066 and affirmed in D.12-12-038, require the presence of an existing COLR in the service territory or a new COLR in the area. No other COLR served AT&T's service territory, and no potential COLR applied to replace AT&T despite adequate notice being provided to other potential COLRs. Accordingly, on June 20, 2024, the CPUC dismissed AT&T's application.¹¹

On June 20, 2024, the Commission initiated Rulemaking (R.) 24-06-012 to consider changes to the COLR rules first adopted in D. 96-10-066 and subsequently updated in D. 12-012-038.

The issues the Commission identified in the new rulemaking were¹²:

1. Is it still necessary for the Commission to maintain its COLR rules? Here, the Commission adopts a rebuttable presumption that the COLR construct remains necessary, at least for certain individuals or communities in California.
2. Should the Commission revise the definition of a COLR, and if yes, how should the Commission revise that definition? What should be the responsibilities of a COLR?
3. Should the Commission revise how it defines a COLR's service territory?¹²
4. Are there regions or territories in California that may no longer require a COLR? Are there regions that require COLR service? If yes, how should the Commission distinguish between the two? What criteria should be met for a region or territory to no longer require COLR designation?
5. Can the Commission require Voice over Internet Protocol (VoIP) providers to be COLRs? If yes, should the Commission designate VoIP providers as COLRs?

¹⁰ Application of Pacific Bell Telephone Company D/B/A/ AT&T California (U 1001 C) for Targeted Relief From Its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations. Application (A.) 23-03-003. Filed March 3, 2023. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M502/K977/502977267.PDF>

¹¹ D. 24-06-024, Decision Dismissing With Prejudice the Application of AT&T California to Withdraw as a Carrier Of Last Resort, Issued in A. 23-03-003, June 25, 2024. <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M534/K542/534542934.PDF>. See Finding of Fact 6 ("No potential COLR volunteered to replace AT&T as a COLR"), Conclusions of Law 1-4, and Ordering Paragraph 1.

¹² Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules, Pages 4-6. June 28, 2024. <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M534/K685/534685783.PDF>

6. Can COLR service be provisioned using wireless voice service? Can the Commission direct wireless voice providers to serve as COLRs? If yes to both, should the Commission designate wireless voice providers as COLRs?
7. If the Commission does not have the authority to require a wireless voice provider to offer COLR service, is a wireless voice provider eligible to volunteer to be a COLR? If yes, should the Commission grant such an application? Should the requirements of a potential wireless COLR be different than a COLR offering Plain Old Telephone Service (POTS) or VoIP service?
8. Should the Commission revise the requirements of basic service? If yes, which requirements or elements should be revised, and what should those revisions be?
9. Should the Commission revise the subsidy amount offered for participation in the California High Cost Fund-B? What is an appropriate subsidy amount and how should it be calculated?
10. Should the Commission revise its rules for how and when a COLR is allowed to withdraw from its designated service territory? If so, how should the Commission revise its rules? Should the Commission require that the service of a potential replacement COLR be functionally similar to that of the current COLR? If yes, what similar functionality requirements should the Commission adopt?
11. When should a COLR seeking to withdraw be required to notify residents in the COLR territory of its request to withdraw? What should be included in the contents of that notification? What method(s) should be used for notification?
12. If a COLR applies to withdraw, and a new COLR is designated, is there a need for a customer transition period? If yes, how long should that transition period last? What customer service protections, if any, should the Commission impose as part of a customer transition period? What other elements or processes, other than customer protection, should be provided in a customer transition period? How long should a customer transition period last?

Based in part on Initial Proposals and reply comments filed by parties in the proceeding, these issues were further refined and articulated in the Assigned Commissioner's Scoping Memo (Scoping Memo) in February of 2025.¹³ The Scoping Memo identified the following issues for consideration:

¹³ Assigned Commissioner's Scoping Memo and Ruling, filed February 4, 2025.
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M555/K967/555967147.PDF>

1. What communications needs or activities still require COLR service?
2. Current COLR service requirements are technology neutral, meaning a COLR must offer basic service to any resident in its service territory that requests it, but may determine what technology to use to provide that service. Should the Commission revise this standard of technology neutrality? If yes, what parameters should be used to determine whether a COLR satisfies the requirement to provide a voice grade connection irrespective of the underlying technology?
3. Should the Commission revise the requirements of basic service? If yes, which requirements or elements should be revised, and how?
 - a. Should the requirements of basic service be different, depending on the technology used to deliver service?
 - b. Are there elements of basic service that are not technology-neutral? If so, are there changes that could make those elements technology neutral?
4. Should the Commission revise its processes for allowing withdrawal of COLR obligations? Under what conditions should the Commission allow a COLR to withdraw? Can the Commission grant a COLR withdrawal while still requiring other discrete common carrier obligations?
5. As part of this proceeding, should the Commission de-designate certain areas that currently are in a COLR's service territory, from requiring a COLR? What are those areas?¹⁴ What conditions must be met for the Commission to do so?
6. When should a COLR seeking to withdraw be required to notify residents in the COLR territory of its request to withdraw? What should be included in the contents of that notification? What method(s) should be used for notification?
7. If a COLR applies to withdraw, and a new COLR is designated, is there a need for a customer transition period? If yes, how long should that transition period last? What customer service protections, if any, should the Commission impose as part of a customer transition period? What other elements or processes, other than customer protections, should be provided in a customer transition period? How long should a customer transition period last?
8. With regard to impacts on environmental and social justice communities, and the achievement of the goals in the Commission's Environmental and Social Justice

¹⁴ For example, AT&T opines that uninhabited census blocks should not require a COLR. See, AT&T, Opening Comments, filed September 30, 2024, at 30-31.

Action Plan, how should the Commission ensure that the prohibition on redlining affirmed in D.95-12-057 and D.95-07-056 applies to providers who may no longer serve as a COLR in a particular area, in accordance with Goal 3.4?

This Staff Proposal provides recommended solutions for the identified Scoping Memo issues supported by parties' comments, workshops, company information, and other research material.

II. Modernizing Access to Essential Communications Services

Current Basic Service

Pursuant to legislative direction enacted as AB 3643 by Assemblymember Richard Polanco,¹⁵ the Commission first established a formal definition of the elements of “basic service” in 1996 to ensure all residential customers in California, regardless of their location or income, could expect a certain minimum, uniform level of service.¹⁶ In 2012, the Commission subsequently revised the definition of basic service and explicitly clarified that the elements of basic service are technology neutral, meaning “any carrier may use any technology to satisfy any obligation to provide basic service.”¹⁷

The Commission adopted and revised the elements of basic service pursuant to legislative direction contained in AB 3643,¹⁸ which directed the Commission to define the obligations for COLRs based on principles including:

- Essential telecommunications services should be provided at affordable prices to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations.
- In order to avoid an “information rich” and “information poor” stratification, there must be an ongoing evaluation of which services are deemed essential and therefore a part of universal service.

¹⁵ Statutes (Stats.) of 1994, Chapter 278.

¹⁶ D. 96-10-066, Conclusion of Law 11, p. 397

¹⁷ D.12-12-038, Appendix A, p. A-1

¹⁸ Stats. 1994, Chapter 278.

Additionally, AB 3643 directed the Commission to develop “a process to periodically review and revise the definition of universal service to reflect new technology and markets,” particularly emphasizing the role of “new technologies” in “education, health care, and the workplace.”¹⁹

In response to AB 3643, the Commission adopted D.96-10-066, establishing a definition of basic service consisting of 17 discrete elements.²⁰ In establishing this definition, the Commission echoed the Legislature in noting “there must be an ongoing evaluation of which services are deemed essential,” with the objective of “avoid[ing] classes of information rich and information poor customers.”²¹ Evaluations of the elements of basic service include the following criteria:

- Whether the service is essential for participation in society.
- Whether a substantial majority, such as 65 percent, of residential customers subscribe to the service (given the availability of the service, the degree to which the service has been promoted by the carrier, the level of customer education, and the communities being targeted for marketing and use of the service).
- Whether the qualitative and quantitative benefits of adding the service outweigh the costs.
- Whether availability of the service or the number of subscribers would not increase without intervention.

The Commission also indicated that such an evaluation should “consider” these listed criteria, but that the respective weights of different criteria should be “developed on a case by case basis,” because “a situation may arise where certain criteria and policy considerations outweigh other criteria and considerations.” In other words, the Commission established a framework for considering which elements of basic service should be added, modified, or removed, especially emphasizing whether an element could be considered “essential” for participation in society but may not be available to all customers without direction from the Commission for a provider to offer the service, with significant discretion provided to the Commission in determining how to weigh competing criteria or policy considerations as technology and the telecommunications market developed.²²

¹⁹ D.12-12-038. p. 3-4

²⁰ D.96-10-066, Appendix B, p. 460-461.

²¹ D.96-10-066, Page 47.

²² D.96-10-066, Conclusions of Law, 21

The Commission in D.12-12-038 revised the definition of residential basic service by consolidating existing requirements into a streamlined framework set forth in Appendix A²³ of that decision. The revised rules require COLRs to provide basic service on a nondiscriminatory basis to all residential households and businesses within their service territories²⁴ and to maintain tariffs through a Tier 2 Advice Letter that clearly specifies the rates, terms, and conditions of service.²⁵ Where multiple technologies are used, each must be separately tariffed. COLRs are also required to inform customers of their right to purchase basic service and prohibited from misrepresenting other services as meeting the Commission's definition.²⁶ Basic service must additionally be made available without contract requirements or early termination fees.²⁷ Finally, the Commission emphasized that basic service remains technology-neutral, permitting carriers to meet their obligations through any technology or combination of technologies, provided that the minimum service standards are satisfied.

In adopting the revised definition, the Commission emphasized the importance of balancing flexibility with the preservation of universal service principles.²⁸ The basic service definition ensures that all Californians retain access to a minimum level of telecommunications service at affordable rates, regardless of technological or market developments. In other words, the Commission reaffirmed the paramount importance of ensuring that all Californians have access to essential communications services, irrespective of the technology used to supply those services.

There are currently nine elements of basic service, as revised in D.12-12-038:

- The ability to place and receive voice-grade calls over all distances utilizing the public switched telephone network or its successor network;
- Free Access to 911/Enhanced 911 service;
- Billing provisions: flat-rate options for unlimited incoming and outgoing calls, and California Lifeline rates and charges for eligible customers;
- Directory services: access to directory assistance within the customer's local community; options for listed or unlisted directory listings; and options for free white pages telephone directory;
- Access to 800 and 8YY toll-free services;

²³ D.12-12-038. Appendix A, p. A-1.

²⁴ D.12-12-038, Appendix C

²⁵ D.12-12-038. Appendix A, p. A-6

²⁶ Ibid.

²⁷ Ibid.

²⁸ D.12-12-038, p. 27.

- Access to telephone relay service as provided in Pub. Util. Code Section 2881;
- Access to customer service information about Universal Lifeline Telephone Service, service activation, termination, and repair, and bill inquiries;
- One-time free blocking for information services and one-time billing adjustments for charges incurred inadvertently, mistakenly, or without authorization; and
- Access to operator services.

Attachment A to this Staff Proposal provides a case-by-case evaluation of each of the elements of basic service guided by the principles established in legislative intent and Commission precedent.

Modernized Essential Service

As discussed throughout the preceding section, many elements of the current basic service paradigm are rooted in an earlier era of the telecommunications industry in which customers primarily depended on wireline voice services. Today, customers primarily depend on a reliable connection to a broadband network capable of supporting advanced services, in addition to a voice-grade connection. CD staff therefore recommend adopting the following definition of Modernized Essential Service going forward to better support the needs of customers, advance public safety, and ensure customers remain connected. The elements of Modernized Essential Service should include:

1. A voice-grade reliable connection²⁹ enabling two-way calls across all distances through the Public Switched Telephone Network or successor network at a simple rate clearly articulated on the company's website.³⁰
2. Offer California LifeLine³¹ service for bundled voice/broadband service or standalone broadband service.
3. Free access to emergency services through 911, including all successor version of the 911 system such as Enhanced 911 or Next Generation 911.
4. Free access to California Relay Service.

²⁹ VoIP offered as a component of Modernized Essential Service must also include the opportunity for customers to obtain Customer Premise Equipment from the COLR capable of 72 hours of backup power.

³⁰ CD Staff recommend remaining vigilant regarding the terms and conditions and pricing practices of providers of Modernized Essential Service. COLRs must submit a Tier 2 Advice Letter (AL) to the Commission for approval detailing the terms and conditions of the Modernized Essential Service. OLRs that continue to offer Basic Service must continue to comply with CPUC tariff requirements.

³¹ The California LifeLine program provides a discount for voice and broadband service for eligible consumers: <https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/lifeline>

5. Free access to Toll-Free 800 and 8YY numbers, as well as all 3-digit public services such as 211, 311, and 988.

In addition to the five Modernized Essential Service elements, COLRs must provide the service in a manner that meets the following general requirements.

1. A COLR provider must file a Tier 2 Advice Letter (AL) with the CPUC for its modernized essential service offerings which must include the service rates, charges, terms, and conditions; and must make this information publicly available. Requirements for customer notice and/or Commission filings for revisions in Modernized Essential Service rates, charges, terms, and/or conditions must be made in accordance with the applicable requirements set forth in General Order 96-B.
2. If a carrier chooses to offer Modernized Essential Service in all or part of its service territory using multiple, different technologies, each type of offering must be detailed including the terms and conditions and pricing practices of providers of Modernized Essential Service via a Tier 2 Advice Letter (AL) to the Commission for approval detailing the terms and conditions of the Modernized Essential Service. This requirement does not extend beyond Modernized Essential Service.
3. Each COLR provider must clearly inform all potential residential subscribers who contact the provider prior to initiating service of their option to purchase Modernized Essential Service and to subscribe to Modernized Essential Service on a month-to-month basis with no termed contracts.
4. A provider must not represent to customers, or in advertising or by any other means, that any services, service elements, or service conditions, except those authorized by the Commission, constitute Modernized Essential Service in California.
5. Until the Commission determines the extent to which new service quality standards should be adopted for carriers, a provider that wishes to offer Modernized Essential Service utilizing anything other than traditional exchange-based wireline technology that cannot comply with all the requirements of General Order 133-D, or its successor, must file a Tier 3 advice letter.
6. This filing must indicate what General Order 133-D, or its successor, service quality measurements and reporting procedures it can comply with, those it can provide functionally equivalent reporting information for and lastly what measurement and reporting requirements are not applicable to the technology it is using to provide Modernized Essential Service. This filing must further indicate how the new service or new technology maintains Modernized Essential Service and service quality standards.

These services highlight the ongoing need for guaranteed access to a minimum level of communications service while also emphasizing that COLRs must adapt their networks to enable customers to access modernized versions of essential services, such as a LifeLine

discount for bundled voice and broadband service or standalone broadband service. In the Scoping Memo, the Commission clarified that broadband is within the scope of this proceeding.³² The Commission has recognized that basic service is technology-neutral and that broadband is relevant to the conversation of basic service and COLR withdrawal.³³

Multiple parties agreed that broadband access is critical for modern essential communication service. Cal Advocates commented that the Commission should amend the basic service definition to include a broadband service component at speeds of 100/20 Megabits per second (Mbps).³⁴ Cal Advocates argues that basic service must be updated to reflect modern consumer demands and the role of broadband as an essential service. Cal Advocates recommends that the Commission should consider the presence of broadband infrastructure in a service area when reviewing a COLR's application to withdraw. In their reply comments to the OIR, Small Business Utility Advocates (SBUA), Empowering Quality Utility Access for Isolated Localities (EQUAL),³⁵ TURN and the Center for Accessible Technology (Joint Commentors) agreed with the notion that COLR requirements should be updated to include a broadband component. Furthermore, Joint Commentors stated that the Commission should prohibit separating phone and broadband as separate entities. SBUA also spoke in favor of adding broadband to the definition of basic service stating that adding broadband would align with both state and federal digital equity goals and would ensure equitable access and technological neutrality³⁶.

Access to quality, reliable, and affordable broadband service is an essential service for Californians and necessary for public safety. Broadband is critical for accessing economic opportunity, telehealth services, and remote learning. This claim was supported in the comment submitted by AT&T which stated that a COLR "is not needed in areas that are well-served with broadband."³⁷ This comment from AT&T supports the necessity of broadband service. At the state level, Governor Newsom's executive order establishing the California Broadband Action Plan (N-73-20), says deploying broadband across the state

³² Scoping Memo, Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules, R.24-06-012, February 4, 2025, pg. 6

³³ Comments of Commissioner Reynolds' Advisor Carolyn Chen at Workshop #3 in CPUC Rulemaking 24-06-012, Time 3:00 - 5:00, September 15, 2025; D.96-10-066 at 109. Any carrier may use any technology to satisfy any obligation to provide basic service. Available as of this writing at: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mappingprogram/broadband-public-feedback/basic-service-definition>

³⁴ Comments of Cal Advocates on the Ruling on Order Instituting Rulemaking Proceeding To Consider Changes To The Commission's Carrier Of Last Resort Rules, September 30, 2024, p. 2.

³⁵ EQUAL states that it is EQUAL is a "grass roots association of utility customers in California formed to advocate for reliable, affordable and ubiquitous utility services for all residents in California, specifically those living in isolated regions of the state."

³⁶ Proposal of Small Business Utility Advocates in Response to the Questions in the Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules, September 30, 2024, pg. 4

³⁷ Pacific Bell Telephone Company D/B/A AT&T California's Opening Comments, R.24-06-012, June 20, 2024

“will accelerate continuous improvements in economic and workforce development, infrastructure, public safety, education, economy, and an engaged citizenry”.³⁸ Similarly, the FCC correctly identified that “access to affordable, reliable broadband is essential to full participation in modern life. Consumers rely on both their fixed and mobile connections to work, learn, access healthcare, and connect with each other.” Additionally, the FCC’s analysis concluded that “advanced telecommunications capabilities are not being deployed to all Americans in a reasonable and timely fashion.”³⁹

The Commission itself has also reaffirmed its commitment to deploying advanced communications services. The Commission is subject to statutory mandates to consider ways to ensure that advanced communications services are made available as ubiquitously and economically as possible, in a timely fashion, to California’s citizens, institutions, and businesses.⁴⁰

Action to modernize what constitutes essential service is clearly appropriate. The 2024 California Advanced Services Fund Annual Report found the statewide adoption rate of fixed broadband service to be 69.34% as of December 31, 2023.⁴¹ In the opening comments submitted by Cal Advocates, several other data sets were identified which indicated that more than 65% of residential customers subscribe to fixed broadband.⁴² Cal Advocates points to the 2022 FCC Communications Marketplace report, which estimated that between 61 and 69% of California households have a broadband subscription with download speeds of at least 100 Mbps.⁴³ Additionally, reports from the Pew Research Center found increasing home broadband usage year-over-year.⁴⁴ As broadband adoption increases every year beyond that level, it is clear that Californians rely on having a broadband internet connection as part of their essential communications services.

³⁸ Executive Order N-73-20, Governor Gavin Newsom, August 14, 2020. <https://www.gov.ca.gov/wp-content/uploads/2020/08/8.14.20-EO-N-73-20.pdf>

³⁹ Federal Communications Commission, *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 22-270 (FCC 24-27), released March 18, 2024, at ¶ 1.

⁴⁰ Pub. Util. Code 882.

⁴¹ 2024 Annual Report of the California Advanced Services Fund. Published April 2024. Pg. 18 <https://www.cpuc.ca.gov/-/media/cpuc-website/industries-and-topics/reports/casf-2024-annual-report---final.pdf>

⁴² Comments of Cal Advocates on the Ruling on Ruling on Order Instituting Rulemaking Proceeding To Consider Changes To The Commission’s Carrier Of Last Resort Rules , September 30, 2024 (SHORT NAME), p. 18 [Cal Advocates 09.30.24.pdf](#)

⁴³ FCC 2022 Communications Marketplace Report at 23, Fig. II.A.15, FCC 22-103. This is the most recent subscription data published in an FCC Communications marketplace Report.

⁴⁴ “Demographics of Internet and Home Broadband Usage in the United States,” Pew Research Center, <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>

At the same time, it is also clear that achieving the goal of ubiquitous broadband deployment will require concerted action on the part of governments and providers to ensure universal service. The state of California and the Federal government have made large scale investments in broadband infrastructure in recent years. These include the \$1.1 billion in awards through the Federal Funding Account,⁴⁵ and over \$1.86 billion allocated to California through the Broadband Equity, Access and Deployment program.⁴⁶

While modern essential service should include broadband, the Commission recognizes that COLRs may need time to upgrade their networks to provide Modernized Essential Services. This can be done using any technology that meets the requirements, including fiber, wireless, coaxial cable, or any combination thereof. Therefore, staff recommend that COLRs continue to provide basic service for up to five years following a decision, after which COLRs would be required to offer Modernized Essential Service.

III. Consumer Choice Categories

In this next section, staff propose:

- A means of identifying areas in California with significant consumer choice in which it may be appropriate for a COLR to apply for withdrawal via an application
- The process by which such a withdrawal should proceed, and
- The process and requirements for COLRs serving an area with limited or no consumer choice.

Some California consumers can have a range of choices between communications providers offering reliable essential services while others have little or no choice between providers due to the lack of private investment in the area. In areas where there is robust consumer choice of communications service providers, staff recommend allowing COLRs to seek Commission approval through a formal application and follow a procedure to be relieved of COLR obligations. In areas with limited or no consumer choice, staff recommend maintaining COLR obligations by offering Modernized Essential Service. The COLR in a limited consumer choice area must remain as a COLR or may seek a path to relinquish its obligations only under two scenarios: 1) seek out an alternative provider to take on their COLR obligations, or 2) voluntarily commit to deploying advanced networks

⁴⁵ See CPUC's Last-Mile Federal Funding Account page at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-implementation-for-california/last-mile-federal-funding-account>

⁴⁶ See CPUC's BEAD Program page at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-implementation-for-california/bead-program>

(“network modernization”) in the impacted area and continuing to provide Modernized Essential Service for an intermediate period of 15 years.

Party Comments - Consumer Choice as a Requirement for COLR

Withdrawal

Cal Advocates states that an overwhelming majority of households in the designated service areas for California’s sixteen COLRs are not served by multiple providers, and therefore COLRs remain necessary. Additionally, Cal Advocates states that only some providers can be considered reasonable alternatives to COLRs.⁴⁷ To be considered a reasonable alternate provider to a COLR, Cal Advocates recommends the provider must offer broadband at speeds of at least 100/20 Mbps, free access to emergency services, meet General Order 133 service quality standards, and be registered or granted operating authority by the CPUC.⁴⁸

Similarly, EQUAL⁴⁹ and Joint Commentors⁵⁰ state that all Californians need a COLR. Joint Commentors point to states that have removed COLR responsibilities such as Florida, Illinois and Nevada and consequently saw a decline in service quality and availability.⁵¹ EQUAL commented that the Commission should consider requiring a departing COLR to provide its “existing plant to a replacement COLR at remaining book value” to enable continuity of service. Departing COLRs must “provide assistance and facilitate incoming COLR, e.g. transfer fiber in good repair, [and] disclose the plant that could be re-assigned as part of COLR withdrawal and the cost...to acquire the plant.”⁵² Joint commentors state that a COLR must demonstrate that consumers are being served by a functional equivalent before they are allowed to withdraw.

Several parties outlined scenarios where COLRs are no longer necessary and should be allowed to withdraw from their obligations. CalBroadband expressed that COLR requirements should apply “as long as those areas lack competition.”⁵³ CalBroadband recommends that if the Commission is to revise its rules it should explicitly state that COLR rules will only apply in those areas with no competitive markets to secure voice

⁴⁷ Opening Comments of Cal Advocates pg. 55, September 30, 2024

⁴⁸ Initial Proposal of the Public Advocates Office on the Order Instituting Rulemaking Proceeding to Consider Changes to the Commission’s Carrier of Last Resort Rules, R.24-06-012, September 30, 2024

⁴⁹ “Proposal of Empowering Quality Utility Access for Isolated Localities (‘EQUAL’) for Changes to Carrier of Last Resort Rules in Order Instituting Rulemaking Proceeding”, September 30, 2024

⁵⁰ “Joint Commenters” includes Communications Workers of America, District 9, The Utility Reform Network, and Center for Accessible Technology. See Opening Comments, R.24-06-012, October 30, 2024

⁵¹ Opening Comments of The Utility Reform Network pg. 23

⁵² EQUAL, “Proposal for Changes to Carrier of Last Resort Rules in Order Instituting Rulemaking Proceeding,” September 30, 2024

⁵³ Opening Comments of the California Broadband and Video Association, September 30, 2024, pg. 1

services. Furthermore, once an area is deemed competitive then existing COLRs should be relinquished of their obligations.

AT&T commented that regions that are well-served with broadband and census blocks with zero population no longer require a COLR. AT&T also states that populated areas with no provider will still require a COLR until broadband is deployed.⁵⁴ Similarly, Consolidated believes that they should be relieved of their COLR obligations because they claim that their area is well served.⁵⁵ US Telecom stated in their opening comments that in regions where there is consumer choice or alternative networks available, there is no longer a need for COLR requirements.⁵⁶ U.S Telecom's reply comment argues that once the broadband networks funded by BEAD and the Federal Funding Account are deployed, there will be no need for COLR requirements anywhere in the state.⁵⁷ These arguments do not address in detail the presence, or lack of, consumer choice, and whether the provider can offer essential service.

Frontier, TDS Companies, and Comcast state that COLR obligations are unnecessary in competitive service areas, and maintaining such obligations in these markets has no consumer protection rationale. TDS companies propose that a carrier should be permitted to relinquish its COLR status through a Tier-3 Advice Letter in which they demonstrate that 80% or more of the service area has access to service through at least one alternative service provider.⁵⁸

TDS companies' statement infers that up to 20% of Californians in an impacted service area may be without reliable access to essential communications service. Moreover, TDS' suggestion of filing a Tier 3 Advice Letter prevents the degree of transparency, public review and party comments afforded by a formal application. For this reason, we do not find in the public interest the notion of relinquishing COLR obligations through the informal Advice Letter process.

Frontier argues in favor of removing COLR requirements from providers in "urban" and "suburban" areas where a competitive market exist is appropriate, and this should be done via a Tier 2 Advice Letter Process. In addition, Frontier recommends that "COLR relief through a Tier 3 advice letter process in more rural markets, based on a location-specific showing that competition is sufficient to life the COLR obligations."⁵⁹ In both Frontier's

⁵⁴ Opening Comments of AT&T pg. 5, September 30, 2024

⁵⁵ Opening Comments of Consolidated pg. 6, September 30, 2024

⁵⁶ Opening Comments of US Telecom – The Broadband Association pg. 5, September 30, 2024

⁵⁷ Reply Comments of U.S Telecom - The Broadband Association pg. 3. Filed on October 30, 2024

⁵⁸ See Opening Comments of Frontier, September 30, 2024; Happy Valley Telephone Company, Hornitos Telephone Company, and Winterhaven Telephone Company (The "TDS Companies"), September 30, 2024; Reply Comments of Comcast Phone of California, October 30, 2024.

⁵⁹ Frontier Opening Comments

and US Telecom's comments, the presence of competition is a prerequisite before deciding whether COLR obligations are still necessary, but there is no agreement on what constitutes competition.

Consumer Choice Parameters

In this section, staff propose parameters for analyzing the degree of consumer choice present in a given area. While there can be different providers offering communications services of some kind in a particular area, it is often the case that only a subset of these providers offer service with the degree of reliability and access to essential communications services that could be considered as an alternative to the service provided by the COLR. If consumers can obtain essential communications service from more than two such providers, excluding the COLR, staff recommend allowing the COLR to pursue relinquishment of COLR obligations through the application process set forth in a subsequent section.

Table 1: Consumer Choice Categories

Category	Definition
Significant Consumer Choice	2+ Qualified Providers (excluding the COLR, COLR is present at any broadband speed) -OR- 1 Qualified Provider (excluding the COLR, COLR is present at any broadband speed) + ubiquitous, reliable coverage by 2 facilities-based mobile providers (subject to proof of service) The above must include at least 1 wireless LifeLine provider <u>AND</u> 1 wireline LifeLine provider, excluding the COLR.
Limited Consumer Choice	Only COLR offers wireline service (COLR is present at any broadband speed) -OR- Only COLR (COLR is present below speeds of 100/20 Mbps) and one other Qualified Provider, + fewer than 2 facilities-based

	mobile providers offer ubiquitous, reliable service.

Staff recommend a definition of “Qualified Provider” that meets the following criteria:

Facilities-based and wireline: the provider is the owner of the network equipment enabling a wired connection to a customer’s premises, such as a drop wire. A facilities-based wireline provider is accountable for ensuring ongoing maintenance and upkeep of network infrastructure and completing repairs when service is interrupted. A provider may qualify as “facilities-based” even if some elements of its broader network, such as backhaul, are leased from other entities or include wireless elements, provided that it owns the facilities enabling the connection to a customer’s premises. Finally, a wired connection provides a high degree of reliability that is critical for ensuring a customer has consistent, uninterrupted access to essential communications services.

Fixed Service: Service is provided to a discrete location, not utilizing a mobile or cellular or satellite network. A discussion of the role of mobile providers is provided in a subsequent section.

Offers Modernized Essential Service: While broadband access is the key to enabling essential communications services to Californians today, voice services, such as VoIP, remain critical to advancing public safety and ensuring customer access to critical functions like 911, that remain predominantly voice based.

Offers broadband: Access to broadband is the key to enabling essential communications in the modern communications industry. Therefore, only providers offering a broadband connection option, at a minimum meeting the broadband definition threshold established by the FCC of 100/20 Mbps, should count as a Qualified Provider.⁶⁰

Subject to a legal prohibition against discrimination and redlining: COLR rules were established to ensure that every Californian has access to essential communications service. This is consistent with the concept of universal service that no customer is left behind and is able to obtain service if requested. The Commission, in its past COLR decisions, recognized the concept of redlining but did not find it necessary to include given that the practice was explicitly prohibited in previous decisions and Commission guidance. The Commission in its local

⁶⁰ March 14, 2024, Federal Communications Commission increases broadband speed benchmarks to download speeds of 100 megabits per second and upload speeds of 20 megabits per second: <https://docs.fcc.gov/public/attachments/DOC-401205A1.pdf>

competition proceeding has already adopted an explicit prohibition against redlining. That regulation states: "Redlining is prohibited and the Commission shall take strong action against any carrier engaging in redlining."⁶¹ The Commission in D.95-12-056 also stated that it is "unalterably opposed to redlining and shall prohibit it," and will "take strong action against any carrier we find engaged in redlining."⁶² In addition, public utilities are prohibited under Public Utilities Code § 453 from discriminating against any person or locality as to rates, charges, service, or facilities.

In areas with two or more Qualified Wireline Providers, staff recommend defining the level of consumer choice as "Significant Consumer Choice." Moreover, Significant Consumer Choice may exist where there is only one non-COLR Qualified Wireline Provider plus the ubiquitous availability of reliable, indoor service from two or more facilities-based mobile providers, as discussed below. In areas where these conditions are not present, staff recommend defining the area as "Limited Consumer Choice." Attachment D to this Staff Proposal provides analysis of the level of consumer choice in California based on FCC Broadband availability data as of December 2024 and LifeLine wireless and wireline provider availability data according to the CA Lifeline Program website (<https://www.californialifeline.com/en>).

Role of Mobile Providers in Consumer Choice

Facilities-based mobile providers offer some degree of consumer choice and may offer services similar to what is provided by a COLR. However, for reasons described below, we do not consider mobile service as a full substitute for a COLR. Rather, we propose mobile service should be considered as a supplementary service for purposes of consumer choice and not on the same level as a Qualified Provider. Data show that mobile service is often complementary to wireline broadband service⁶³ and not a substitute. Both services are often necessary and work together to offer consumers access to service. A wireline connection provides reliable coverage for real-time services like voice communications and higher capacity for in-home broadband access, while mobile enables flexibility by providing services on the go through mobile voice and broadband.

Demand for mobile services has grown substantially in the decades, as has mobile coverage. According to the Telecommunications and User Fee Filing System (TUFFS), as of

⁶¹ D.95-12-056, Appendix C, 4.F.(17)

⁶² *Ibid*

⁶³ See Pacific Bell Telephone Company D/B/A AT&T California's (U 1001 C) Opening Comments, September 30, 2024, p.14, footnote 38. In 2022, over 25% of California adults were "landline-only," "landline mostly," "equally landline and mobile," and "primarily mobile" users. Source: "National Health Interview Survey," National Center for Health Statistics, 2024.

July 2025, there were 45.08 million wireless voice subscribers in the state, comprising 84 percent of all access lines.⁶⁴ The Commission's Annual Report of Telephone Corporation Customer, Employment, and Investment Information tracks capital investments in the wireless network from telephone corporations with 750 employees or more. The 2019 report found that capital investments in the wireless network totaled \$2.9 billion in 2016 and \$2.8 billion in 2017.⁶⁵ The most recent report released in 2022 revealed that these investments have increased dramatically. Total capital investments in wireless networks totaled \$4.78 billion for 2022 which represents a 5.66% year-over-year increase from 2021.⁶⁶ Because of increased infrastructure and redundancy, mobile service has become more reliable.

In addition to improved infrastructure, facilities-based mobile providers are also subject to network resiliency rules which help ensure their facilities are able to operate for a period of time during power outages and natural disasters. In D.20-07-011, the Commission sought to improve wireless resiliency by directing facilities-based mobile providers to develop "comprehensive resiliency strategies to prepare for catastrophic disasters and power outages."⁶⁷ The Commission established a 72-hour backup power requirement, critical location information sharing with emergency services, and also directed facilities-based mobile providers to file emergency operations plans with the Commission.⁶⁸ In contrast, non-facilities based mobile providers are not bound by the same requirements.

To consider mobile service providers as potential alternatives to a COLR, we must analyze to what degree fixed and mobile providers compete with each other, and to what degree they are functional substitutes. Previously, the Commission found in D.16-12-025 that, in terms of their basic function of providing voice service for their customers, they are functionally identical. However, the same Decision identified critical limitations to mobile service which may make it only a partial substitute to the essential communication service guaranteed by a COLR. The two main limitations found in the Commission's analysis were that mobile service is subject to "coverage gaps and weak wireless signals or weak indoor wireless signals" and that mobile providers may not provide the "special needs of

⁶⁴ Wireless subscriber figure from Telecommunications and User Fee Filing System (TUFFS) July 2025.

⁶⁵ See "Annual Report of Telephone Corporations Customer, Employment and Investment Information As Required by Public Utilities Code Section 914 https://www.cpuc.ca.gov/-/media/cpuc-website/files/uploadedfiles/cpucwebsite/content/about_us/organization/divisions/office_of_governmental_affairs/legislation/2019/pu-code-report-914-report-final-01-17-2019.pdf pg. 8

⁶⁶ See "Annual Report of Telephone Corporation Customer, Employment, and Investment Information," Published January 2024. Pg. 5. <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/office-of-governmental-affairs-division/reports/2024/annual-report-puc-7912-puc-914-cy-2022.pdf>

⁶⁷ [CPUC Decision 20-07-011](#) pg. 2

⁶⁸ [CPUC Decision 20-07-011](#) pg. 36-37

customers with disabilities for the features provided by landline service, such as compatibility with medical devices or with TTY and TTY relay services.”⁶⁹ These same limitations remain present to some degree despite improvements in mobile provider capabilities, and therefore it is reasonable to consider mobile providers as a supplementary source of consumer choice where there is at least one Qualified Provider offering an alternative to the COLR in addition to ubiquitous indoor mobile service.

Mobile coverage maps may not reflect true COLR-equivalent indoor coverage in a given service area. Several parties filed comments stating that true on-the-ground coverage does not match the coverage illustrated on mobile service provider maps. In their comment responding the April Workshops, TURN noted a report issued by the Government Accountability office.⁷⁰ The concerns in the Report⁷¹ include “the incentive to overstate the service they offer to prevent competitors from having an opportunity to provide service to the same location,” and that the reported speeds within the maps are the advertised speeds and not the true speeds regularly experienced by the consumer.

Availability and quality of mobile voice and broadband service indoors is also a critical shortcoming. Several parties claim that the FCC’s National Broadband Map shows widespread mobile coverage in California. However, as noted in TURN’s comment in response to the April workshop, the FCC’s map displays broadband, not voice, coverage and explicitly states, “that the map does not include information on the availability of mobile wireless broadband service while indoors.” Wireless signals can easily be disrupted by geographic or structural obstacles. This lack of service quality guarantee for every residence in California directly conflicts with the primary COLR principle of universal service. A mobile service provider has also recognized that their claimed coverage map area cannot mean or guarantee service at all times to a specific location or at an address level. Verizon states that “... Verizon’s voice coverage maps that are filed with the FCC do not guarantee service at all times and are only reflective of approximate coverage.”⁷²

⁶⁹ Decision 16.12.025, Decision Analyzing the California Telecommunications Market and Directing Staff to Continue Data Gathering, Monitoring, and Reporting on the Market, Investigation 15-11-007, December 1, 2016, pg. 43

⁷⁰ Opening Comments of The Utility Reform Network and Center for Accessible Technology on the Administrative Law Judge’s Ruling Regarding Comments Discussed at April Workshops, June 13, 2025

⁷¹ United States Government Accountability Office, Broadband Programs: Agencies Need to Further Improve Their Data Quality and Coordination Efforts (April 2025), GAO-25-107207, available at <https://www.gao.gov/products/gao-25-107207>. (“GAO Broadband Data Quality Report”)

⁷² Verizon September 3, 2024, Opening Comments to Administrative Law Judge’s Ruling Issuing Staff Proposal, p. 46, R.22-03-016 Order Instituting Rulemaking Proceeding to Consider Amendments to General Order 133. Additionally, as of November 14, 2025, the websites of each of the three large national mobile

Cal Advocates states that the CPUC “needs granular, address-level data about the availability of voice service in existing COLR territories. Unfortunately, such robust data has not been compiled by the Commission, the Federal Communications Commission (FCC), or any other state agency.”⁷³ AT&T also reminds us that their mobile network is designed primarily for outdoor service and stated that “[t]hese services are *mobile*, so a customer can make and receive calls outside the home.”⁷⁴ As such, mobile service provider maps cannot be considered reliable determinants for COLR substitution. This stems from persistent challenges of overstatement of mobile coverage and concerns regarding availability and quality of voice and broadband service indoors.

Therefore, we recommend defining an area as having “Significant Consumer Choice” for the purpose of filing an application for COLR withdrawal if there is coverage by two or more Qualified Provider other than the COLR or one Qualified Provider excluding the COLR plus ubiquitous, reliable indoor coverage by at least two facilities-based mobile providers. Such coverage must be demonstrated in the COLR’s application by actual testing, including indoor testing, as described in the Withdrawal Process section.

Network Modernization

Both AT&T and US Telecom cite the significant cost of maintaining and operating legacy copper networks.⁷⁵ AT&T claims fiber networks “require substantially less energy, are more

carriers indicates this. AT&T Mobility’s coverage map, available at <https://www.att.com/maps/wireless-coverage.html>, includes the following clarification: “This map displays approximate outdoor coverage. Actual coverage may vary. Coverage isn’t guaranteed and is subject to change without notice.” Verizon’s coverage map, available at <https://thingspace.verizon.com/documentation/get-started/global-coverage-map.html>, includes the following language: “These Coverage maps depict predicted and approximate wireless coverage. The coverage areas shown do not guarantee service availability and may include locations with limited or no coverage. Even within a coverage area, there are many factors, including customer’s equipment, terrain, proximity to buildings, foliage, and weather that may impact service.” T-Mobile’s coverage map, available at <https://www.t-mobile.com/coverage/coverage-map>, includes the following statement: “(T-Mobile’s coverage map) approximates anticipated coverage outdoors (including 600Mhz 4G LTE) based on a variety of factors, which may include limited or no coverage areas, and does not guarantee service availability; some data-intensive uses may have decreased functionality in low-bandwidth areas, especially indoors or on the exterior edges of the approximated coverage area. Within coverage areas, network changes, traffic volume, outages, technical limitations, signal strength, your equipment, obstructions, weather and other conditions may interfere with service quality and availability.”

⁷³ Opening Comments of the Public Advocates Office on the Administrative Law Judge’s Ruling Regarding Comments on Topics Discussed at August 22, 2025, Workshop, 11/21/25, p.10

⁷⁴ See Pacific Bell Telephone Company D/B/A AT&T California’s (U 1001 C) Opening Comments on Administrative Law Judge’s Ruling Regarding Comments on Topics Discussed at August Workshop, 11/21/25, p.24.

⁷⁵ See Reply Comments on the Administrative Law Judge’s Ruling Regarding Comments on Topics Discussed at the April Workshops, filed separately by Pacific Bell d/b/a AT&T California and US Telecom on June 27, 2025, in Rulemaking R.24-06-012.

resilient to environmental degradation, and have lower failure rates.”⁷⁶ It further cites a statistic from the Fiber Broadband Association from 2020 that the operational expense savings of maintaining a fiber network over a copper network is 63 percent. US Telecom states that, “[r]equiring companies to maintain an old copper network that uses and relies on equipment that can be 50 years old, which due to its significant commercial power demands has a high environmental impact, does not make sense.”⁷⁷

The CPUC’s COLR obligations are technology-neutral, and as such, COLR obligations may be fulfilled using fiber optic, coaxial cable, or wireless as alternatives to copper. CTIA⁷⁸ opines that “the Commission should not and may not involuntarily require a wireless provider to serve as a COLR,” but that does not rule out the possibility of a provider that has wireless as one of its offerings to use that technology to meet COLR requirements, as long as it can deliver all the elements of basic service.

IV. Significant Consumer Choice - Withdrawal Process

In areas with Significant Consumer Choice, we agree with both AT&T and Cal Advocates that a phased approach for COLR withdrawal is appropriate.⁷⁹ As proposed here, the presence of two or more non-COLR Qualified Providers offering reliable essential services and subject to requirements to offer service in a non-discriminatory manner, plus the presence of at least one wireline and one wireless California LifeLine provider, will ensure a reasonable level of consumer choice. In addition, an application for withdrawal may be considered for approval if there is presence of one non-COLR Qualified Provider plus ubiquitous, reliable coverage by 2 facilities-based mobile providers (subject to proof of service)

Even where Significant Consumer Choice is present, it is necessary to have an orderly and transparent process for withdrawal of a COLR’s obligation to serve.

In the following section, the process for requesting withdrawal from COLR obligations is described in detail. It consists of four phases:

1. Pre-Application Phase

⁷⁶ *Ibid*

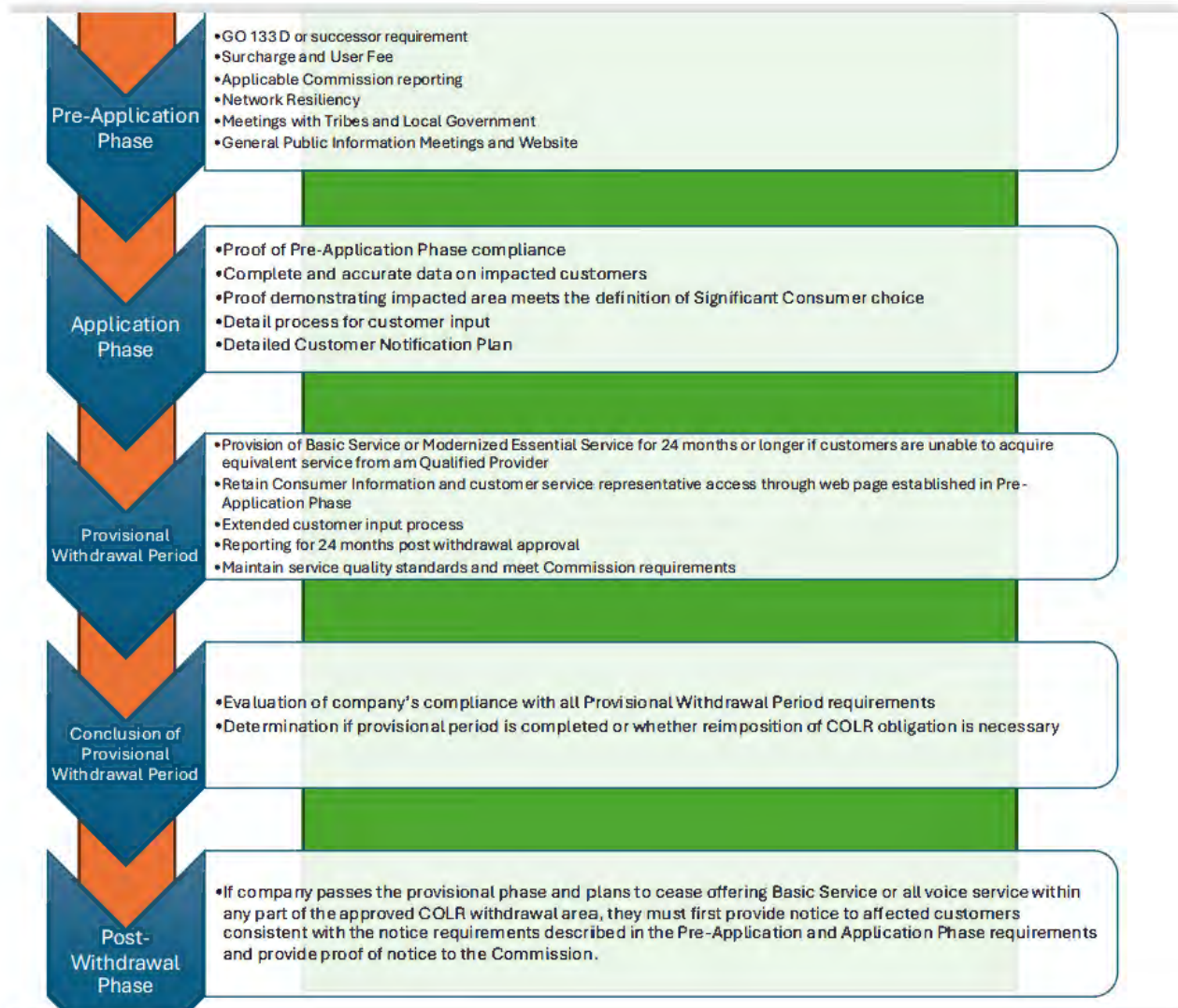
⁷⁷ *Ibid*

⁷⁸ See Comments of CTIA on Administrative Law Judge’s Ruling Regarding Reply Comments on Topics Discussed at April Workshops, filed on June 27, 2025, in Rulemaking R.24-06-012.

⁷⁹ See Pacific Bell Telephone Company D/B/A AT&T California’s (U 1001 C) Opening Comments on Administrative Law Judge’s Ruling Regarding Comments on Topics Discussed at August Workshop, 11/21/25, page 3, and, Opening Comments of the Public Advocates Office on the Administrative Law Judge’s Ruling Regarding Comments on Topics Discussed at August 22, 2025 Workshop, 11/21/25, page 2.

2. Application Phase
3. Provisional Withdrawal Phase
4. Post-Withdrawal Phase

Significant Choice Areas – Withdrawal Process



Application Size and Frequency

Staff agree with the Joint Commenters⁸⁰ that limiting the size of a COLR withdrawal application is necessary to ensure that the Commission, the public, and all interested

⁸⁰ See Opening Comments of the Utility Reform Network and Center for Accessible Technology on the Administrative Law Judge's Ruling Regarding Comments on Topics Discussed at the August 22, 2025, Workshop, 11/21/25, p.32.

parties are able to effectively and thoroughly evaluate the application and the potential effect on consumers. Even for an area that the company states is unpopulated, a geographic limit is necessary to ensure that the Commission and all parties are able to validate the evidentiary basis of the COLR's claims and evaluate any effect of COLR withdrawal on ancillary services or consumers who may not reside in the area but still rely on essential communication services.

A relevant parallel exists in a recent Settlement Agreement approved by the Washington Utilities and Transportation Commission, which also set limits on the size of the petitions. A representative of the Washington Utilities and Transportation Commission at the April 4, 2025, CPUC workshop in this proceeding indicated that having application limitations was intended to ensure staff and Public Counsel have adequate time to thoroughly review the request and validate the data.⁸¹

The Commission having similar limitations as the Washington Utilities and Transportation Commission would allow it to avoid reviewing Applications with enormous geographic footprints and massive numbers of customers. Indeed, in 2023, AT&T California requested Commission approval to withdraw as COLR from nearly its entire designated COLR territory, potentially affecting millions of customers and a majority of the state's geographic footprint. A limitation on the geographic scope and number of affected customers for such applications will enable the Commission, stakeholders, and the public reasonable opportunity to validate the evidentiary basis for the request and evaluate the potential impacts on customers, public safety, and other critical considerations, without unreasonably burdening COLRs who seek relief from COLR obligations where they claim such obligations are no longer necessary. Staff recommend the following withdrawal application parameters for each unique COLR:

- ☐ One application per calendar year;
- ☐ Each application may cover an area that includes a maximum of 20% of the total units within the designated COLR territory as of the adoption of the Decision in this proceeding,⁸² ;
- ☐ Each application must be geographically contiguous and no larger than 10,500 square miles;

⁸¹ Sean Bennett, Section Manager – Telecommunications, Washington Utilities and Transportation Commission, at Workshop 1: Tribes, Public Safety, Rural Counties, and Other States; April 4, 2025, https://www.youtube.com/watch?v=6DDdSv_gP3s&themeRefresh=1

⁸² The specific number should be specified for each COLR in the adopted version of a Decision in this proceeding, which should also explicitly identify the data utilized for this calculation.

- ☐ Each application may include areas that the COLR considers to be populated, unpopulated, or both, as long as all locations in a single Application fit within the customer and geographic limits described previously;
- ☐ To the extent the Commission denies a COLR application in whole or in part, the company may not reapply for withdrawal for any of those denied areas for 24 months after the decision is adopted.

Pre-Application Phase Requirements

Compliance with Commission Requirements

Any carrier that seeks authorization to withdraw as a COLR must demonstrate that they are in compliance with all existing Commission rules and obligations including, but not limited to those relating to:

1. Service Quality measures and standards (the most current GO 133),⁸³ for a period of 24 months preceding the Application's filing date or have a CPUC-approved Corrective Action Plan with which the company is in full compliance
2. Surcharge and User Fee reporting and remittance⁸⁴
3. Carrier reporting requirements⁸⁵, for a period of 24 months preceding the Application's filing date
4. Network resiliency requirements⁸⁶, for a period of 24 months preceding the Application's filing date

Documentation of compliance with all of the above must be included as part of a formal application.

Multiple parties identified a need for COLRs requesting authorization for COLR withdrawal to demonstrate full compliance with service quality standards required under General Order 133. Cal Advocates proposed that for a COLR to be granted provisional withdrawal, they must be in compliance with service quality standards (recently revised as GO 133-E),

⁸³ General Order 133-D, adopted by D.16-10-019; GO-133-E adopted by D.25-09-031, effective January 1, 2027

⁸⁴ See D.22-10-021, D.24-11-003 (VOIP), Public Utilities Code Sections 431 and 432

⁸⁵ See <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/carrier-reporting-requirements>; GO 104-A and D.93-02-019; PU Code Section 489(a); D.13-05-035, D.11-09-026/D.10-09-017 and/or D.24-11-003; and G) 69-C

⁸⁶ [D.20-07-011](#) (wireless) & [D.21-02-029](#) (wireline)

including reliability and availability service standards.⁸⁷ Similarly, EQUAL proposed that carriers requesting COLR relief demonstrate that they are in full compliance with the five service quality standards for POTS established under the then-existing GO 133-D.⁸⁸ The requirement for a COLR to have been in compliance with GO 133 was also included in pending legislation,⁸⁹ signaling the broad recognition of the importance of having COLRs demonstrate they are in compliance with service quality rules prior to being allowed to withdraw.

CD Staff agree that prior to submitting an application for relinquishment of its COLR obligations, a COLR must have been in compliance with all applicable service quality metrics set forth in GO 133-D, or any successor to that GO, for a minimum of 24 months preceding the filing date of the application. Payment of fines for non-compliance that occurred within the last 24 months does not satisfy this requirement. Additionally, the company must have completed payment of any fines and completed all approved reinvestment projects resulting from service quality violations that occurred more than 24 months before filing.

If the company has failed to meet service quality metrics set forth in GO 133-D, or any successor to that GO, within the 24 months prior to submitting the application, but has a Corrective Action Plan approved by the Commission, then the carrier may submit an application for relinquishment of its COLR obligations if the following conditions are met:

- The carrier has met all relevant milestones in the Corrective Action Plan, including those related to construction and infrastructure deployment.
- The carrier has submitted all quarterly reporting for the Corrective Action Plan.
- If the end date for the Corrective Action Plan has passed, the carrier must have completed all required activity, including any construction or infrastructure deployment.
- The carrier submits evidence that they are in compliance with the Corrective Action Plan.

In addition to demonstrating compliance with the Corrective Action Plan at the time they file the application, the carrier must continue to demonstrate compliance with any ongoing requirements from the Corrective Action Plan throughout the COLR withdrawal proceeding.

⁸⁷ Initial Proposal Of The Public Advocates Office On The Order Instituting Rulemaking Proceeding To Consider Changes To The Commission's Carrier Of Last Resort Rules, at 54

⁸⁸ Empowering Quality Utility Access for Isolated Localities (EQUAL), Opening Comments on R.24-06-012 Scoping Memo, at 15

⁸⁹ Assembly Bill (AB) 470 by Assemblymember Tina McKinnor

If at any point during the withdrawal proceeding the carrier falls out of compliance, the Commission may deny the application.

The company must also be compliant with all compliance filings including, but not limited to:

1. Annual Reports (Annual Report on Operations and Financials and Annual Affiliate Transaction Report)
2. Any required tariff filings
3. Performance bond

This includes completing payment of any citations for past non-compliance.

Lastly, the company must be current on surcharge and user fee reporting and remittance. This means that the company must pay all surcharges and user fees owed for all reporting periods for which the deadline has passed. This includes completing payment of any interest and/or penalties or citations for past non-compliance.

Meeting with Tribes and Local Government

A COLR seeking to relinquish its obligation to serve an area should be required to conduct formal meetings with all Tribal or local governments with jurisdiction over the COLR territory that will be relinquished. For areas under the jurisdiction of an incorporated municipal government, this should include both the relevant county government and the municipal government; for unincorporated areas, it should include the relevant county government. These meetings should occur before the COLR files its application, and documentation of the meetings having occurred is a requirement of filing an application for relinquishment.

A COLR seeking to relinquish its obligation should contact the Native American Heritage Commission to ensure it has the most updated and correct list of Tribes that may be impacted by an application. In the case of Tribal meetings, the COLR shall meet with each Tribe on an individual basis; in other words, it shall not conduct a meeting with multiple Tribes at once, unless a joint meeting is requested by multiple Tribes. For meetings with municipal or county governments, COLRs may conduct multiple meetings at once; in other words, a COLR may meet with a county government at the same time as it meets with municipal governments.

COLRs should take all feasible steps to ensure meetings are meaningful and supply the consulted governments with detailed information sufficient to conduct planning and notify

relevant stakeholders. At minimum, this shall include sharing a map of the planned area for the application, sharing the evidentiary basis upon which the COLR will claim that significant consumer choice exists within the area, sharing detailed information on any ongoing legal obligations (such as merger conditions or statutory requirements) to which the company will be subject after relinquishment, and whether and when the company plans to discontinue service in part or all of the affected area. The COLR should also present a plan for ensuring continuity of critical services in the affected area. The COLR must also provide information to the government about the process to submit public comments and become a party to the eventual proceeding.

The COLR should take all feasible steps to ensure the representatives of the consulted government are of sufficient level of responsibility to convey the information to relevant public stakeholders, such as emergency services and government information technology departments. If a consulted government has inquiries related to the planned application, the COLR shall respond promptly to those further inquiries. If the consulted government requests additional meetings, the COLR should take all reasonable steps to facilitate additional meetings. If the COLR is unable to satisfy a request for additional meetings, it should report the reasons why it has not provided additional meetings when it files its application or, if the application has already been filed, as a formal filing within the proceeding.

If a COLR is unable to conduct a meeting with an affected government (including Tribal) through no fault of its own, the COLR may file the application for relinquishment once it has exhausted all feasible good faith options for conducting a meeting. When the COLR files the application, it shall identify all attempts to contact and facilitate a meeting with any non-responsive government, steps taken to ensure the success of the contact attempts and plans to continue attempting to conduct meetings after filing the application. If a government responds to an invitation for a meeting after filing of the application, the COLR shall conduct the meeting.

General Public Information Meetings and Website

It is important that requests by COLRs to relinquish their obligations undergo public scrutiny to ensure any application is based on valid information confirmed by members of the public or other interested stakeholders who are familiar with on-the-ground service availability and reliability in areas with significant consumer choice.

Furthermore, even in areas with significant consumer choice, it is likely that customers and interested stakeholders will need to adopt new policies or expectations related to service availability, for which advanced and detailed information is critical. A COLR seeking to relinquish its obligation to serve an area must hold public in-person information sessions

prior to filing its formal application to relinquish its COLR obligation. To meet this requirement, the sessions must be held within the geographic bounds of the area the COLR will apply for relinquishment of its obligation to serve. The COLR should make a good faith effort to ensure widespread notice of such sessions, including providing direct notice via email, text, and bill insert to any current basic service customer, customers who have subscribed to basic service within the previous five years, and general advertising within affected communities (such as newspapers, social media posts, radio or television advertisement, etc.). The timing and location of the sessions used to meet this requirement must be selected with the purpose of ensuring maximal accessibility to interested members of the public, such as by holding the sessions outside of typical working hours and in a location that is easily accessible to members of the public. If the application includes any Environmental and Social Justice (ESJ) communities⁹⁰, the COLR shall take measures to ensure that members of ESJ communities specifically are adequately informed of the session and given an opportunity to attend. For example, the COLR could hold the information session at a location on Tribal lands for an application that will include Tribal lands, or ensure notice is provided in non-English language media if the area includes significant numbers of native speakers of languages other than English. Notice should also be provided in formats accessible to people with disabilities, including electronic, Braille, audio, and large print, and the COLR should ensure that notice is provided in languages appropriate to the population of the area.

At a public information session, the COLR that plans to file an application for relinquishment of the obligation to serve should provide an informational presentation on its plans for relinquishment, the data it intends to use to demonstrate the significant consumer choice present in the area, the specific geographic area that will be subject to the application using features that are familiar to customers such as ZIP codes and municipal or county boundaries, and the Commission's process for evaluating an application for relinquishment, including specifically highlighting opportunities for the public to comment on the application once it is filed. The COLR should ensure company representatives are in attendance who can help customers resolve billing or service reliability disputes. The session shall also include an opportunity for members of the public to directly voice concerns about the validity of the data presented as it pertains to their

⁹⁰ Commission ESJ Action Plan 2.0: ESJ communities are low-income or communities of color that have been underrepresented in the policy setting or decision-making process, are subject to a disproportionate impact from one or more environmental hazards, and likely to experience disparate implementation of environmental regulations and socio-economic investments in their communities. In addition, ESJ communities include Disadvantaged Communities, defined as census tracts that score in the top 25% of CalEnviroScreen 3.0, along with those that score within the highest 5% of CalEnviroScreen 3.0's Pollution Burden but do not receive an overall CalEnviroScreen score; all Tribal lands; low-income households; and low-income census tracts.

community so the COLR may take those concerns into consideration as it prepares its application and address potential flaws in the data. The COLR is also encouraged to provide an opportunity for interested individuals or stakeholders who are unable to attend in person to review the information, such as by recording or livestreaming the session or making the information available on a public website.

When the COLR files its application, it must include detailed information on the date and location of all public information sessions and how this session was noticed and advertised to members of the public. The COLR should additionally provide the agenda for the session, any presentation materials or informational handouts, and an estimate of the number of attendees, as well as any issues raised by public attendees.

The COLR should estimate the number of impacted residents based on the population of the area subject to the application (not merely the number of Basic Service customers). If the number of impacted residents is estimated to exceed 50,000, the COLR shall conduct at least one additional information session per additional 50,000 residents. In other words, for an application impacting 100,000 customers, the COLR must conduct at least 2 information sessions. Additionally, for applications affecting large geographic areas, the COLR shall take measures to ensure sessions are held within reasonable distances from all affected residents. Specifically, an information session shall not satisfy this requirement if it is held more than 50 miles away from an affected area and there must be at least one information session held within 50 miles of every basic service customer's service address.

In addition to the information sessions, the COLR must create a public webpage with information on its plans for relinquishment. The webpage must include the same information as the public information sessions including its plans for relinquishment, data demonstrating consumer choice in the area, the specific geographic area that will be subject to the application using features that are familiar to customers such as ZIP codes and municipal or county boundaries, and the Commission's process for evaluating an application for relinquishment, including specifically highlighting opportunities for the public to engage with the application once filed. Similar to Cal Advocates' proposal⁹¹, the webpage must include an interactive map of the proposed withdrawal area in which the public can input an address and receive information about whether or not that location would be affected by the proposed withdrawal.

⁹¹ Cal Advocates proposed that application notice include link to interactive map of areas affected, that is housed on the COLR's website, includes a Census Block layer and allows customers to determine at address level if they will be impacted by proposed withdrawal. (Initial Proposal of the Public Advocates Office on the Order Instituting Rulemaking Proceeding to consider changes to the Commission's Carrier of Last Resort Rules, at 67)

Application Phase Requirements

A COLR seeking to relinquish its obligation to serve an area should file a formal application with the Commission. At minimum, the application should include the following elements:

- 1) Documentation that the COLR has met all pre-application requirements:
 - a. Meet with all impacted governments and hold a sufficient number of meaningful public information sessions and customer website
 - b. Documentation that the COLR has adhered to the requirements of General Order 133-D or its successor for the previous 24 months
 - c. Documentation that the COLR is in compliance with all Surcharge and User Fee reporting and remittance requirements and related compliance filings
 - d. Documentation that the COLR is in compliance with all applicable Commission reporting requirements.
 - e. Documentation that the COLR is in compliance with all applicable network resiliency requirements.
- 2) Complete and accurate data on potentially affected customers, as specified below
- 3) Evidence demonstrating that all areas affected by the application meet the definition of Significant Consumer Choice
- 4) Customer Input Opportunity
- 5) Customer Notification Plan

Each of these elements are described in greater detail in Attachment C to this Staff Proposal.

Application Evaluation Process

The Commission should strive to ensure reasonable and sufficient opportunities are available for customers and relevant stakeholders to engage with the application.

As part of the proceeding evaluating the application, the Commission should conduct Public Participation Hearings in affected communities to ensure adequate notice is provided to customers who seek to provide input on the data submitted by a COLR in its application purporting to show the presence of Significant Consumer Choice in an area. If the COLR withdrawal application is incomplete, staff should notify the applicant, and the application will not be considered until it is complete.

Provisional Withdrawal Period

If the Commission approves an application for COLR withdrawal, that approval shall be considered provisional for 24 months from the date of adoption. The company must comply with all of the requirements described in the following subsections or the approval for COLR withdrawal will be revoked. The Provisional Withdrawal Period requirements include:

- Ongoing Provision of Basic Service or Modernized Essential Service if available
- Consumer Information
- Extended Consumer Input Process
- Reporting
- Service Quality Metrics

The provisional withdrawal period will allow the Commission to assess the effect of the COLR withdrawal and withdraw the approval if sufficient failure conditions are found. In comments, Cal Advocates proposed that the Commission implement a 36-month provisional period for ending COLR obligation during which the Commission would evaluate access, affordability, and impacts on customers.⁹² They proposed that the Commission only authorize final withdrawal if the COLR continues to meet required standards during the provisional withdrawal period.⁹³ Staff agree that a provisional period is necessary and recommend a 24-month provisional period as discussed below.

Ongoing Provision of Basic Service or Modernized Essential Service

During the Provisional Withdrawal Period, the company must continue to provide Basic Service to all existing customers or Modernized Essential Service if the COLR's network enables the delivery of Modernized Essential Service. If a customer demonstrates that they are unable to acquire equivalent service from another Qualified Provider, the company must continue to offer basic service or Modernized Essential Service to that customer. To qualify for continuation of basic service, the customer must provide evidence that they are unable to purchase equivalent service from another Qualified Provider.

The company shall set up a process, to be approved by the Commission, for customers to request continuation of basic service and submit evidence that they were unable to

⁹² Initial Proposal Of The Public Advocates Office On The Order Instituting Rulemaking Proceeding To Consider Changes To The Commission's Carrier Of Last Resort Rules, at 2

⁹³ Initial Proposal Of The Public Advocates Office On The Order Instituting Rulemaking Proceeding To Consider Changes To The Commission's Carrier Of Last Resort Rules, at 2

acquire service from another Qualified Provider. As part of this process, the company must regularly provide the Commission with copies of every such customer request and supporting documentation as well as the company's determination. The Commission may review any customer request and overturn the company's determination and require that they restore basic service or Modernized Essential Service to specific customers. This process must include options for the customer to submit their supporting documentation online or through hard copies. The customer must provide evidence such as:

- A screenshot or printout of the other Qualified Provider's website that shows that their address is not served
- Message from the other Qualified Provider denying a request for service
- Cancellation of request for service installation

Provisional Withdrawal Period (2 years - 24 months)

Current Existing Basic Service Customers
Company continues to maintain Basic Service or upgrade to Modernized Essential Service (if available) connections for 24 months post Application approval. 3 Customer notifications: 1. Notice at time Application approved 2. With at least 12 months in advance of Month 24 3. With at least 6 months in advance that service will end by end Month 24.
Reporting and Process Requirements
Month 1 – 24 - Extended customer input process. Consumers can notify the Commission of errors in the determination of significant consumer choice or changes in the availability of service from Qualified Providers. Month 6+ - The company shall set up a process, to be approved by the Commission, for customers to request continuation of basic service and submit evidence that they were unable to acquire service from another Qualified Provider. - The company must file reports with the Commission every 6 months with information detailed in the "Reporting" section of the Staff Proposal. Month 24

- Company submits a final report showing that all existing Basic Service customers have transitioned to a Qualified Provider.
- Commission will evaluate the company's compliance with all requirements in the Provisional Withdrawal period.

Consumer Information

During the Provisional Withdrawal Period, the company must maintain the informational webpage outlined in Pre-Application Requirements. The webpage should be updated to reflect the Commission's provisional withdrawal approval of COLR withdrawal. The website should include up to date information on voice and broadband service offered by other Qualified Providers in the withdrawal area. Lastly, basic service customers must be able to call the company and receive assistance from a customer service representative to identify other service providers who service their specific address.

Similar provisions were adopted in the settlement between the State of Washington and CenturyLink. The settlement includes a commitment from CenturyLink to provide customer service agents, known as "Digital Ambassadors," to help customers find alternative service providers and answer questions about the transition.⁹⁴ Additionally, these Digital Ambassadors may schedule in-home mobile service tests to measure for signal strength if the customer reports that they do not have access to reliable service from the alternative providers listed.⁹⁵

Extended Customer Input Process

During the provisional withdrawal period, the Commission should establish a mechanism for consumers to notify the Commission of errors in the determination of significant consumer choice or changes in the availability of service from Qualified Providers. During the proceeding to grant provisional withdrawal, the burden is on the company to demonstrate that there is significant consumer choice within the withdrawal area and that consumers would not be harmed. However, the goal of this withdrawal process is to ensure that no consumer loses access to vital communications service. Therefore, the challenge

⁹⁴ second full multiparty settlement agreement between State of Washington and the CenturyLink Companies, ATTACHMENT A: 2025 PLAN FOR AFOR OF CENTURYLINK ILECS, at 18

⁹⁵ second full multiparty settlement agreement between State of Washington and the CenturyLink Companies, ATTACHMENT A: 2025 PLAN FOR AFOR OF CENTURYLINK ILECS, at 18

process established during the application process must continue for the duration of the provisional withdrawal period.

This ongoing Customer Input Process will provide a venue for consumers who are unable to acquire service from another provider to notify the Commission. This could occur if one or more of the other providers identified in the application does not actually provide service throughout the whole area claimed by the application or if a competing provider stops providing service in some areas after withdrawal application is approved.

The Commission will evaluate the consumer input and include them in its determination of whether or not the company will be able to graduate from the provisional withdrawal period to permanent withdrawal. Additionally, the Commission may use the consumer input to determine if COLR obligations should be reinstated within specific subsets of the area.

Reporting

For the duration of the 24-month provisional withdrawal period, the company must file reports with the Commission every 6 months that include the following information about the withdrawal area:

- b. Subscriber Information
 - i. The total number of voice service subscribers during each month
 - 1. The number of basic service customers during each month and technology type(s) used to provide that service
 - 2. The number of voice customers subscribed to a service that does not meet the definition of basic service
 - ii. The total number of broadband subscribers, by speed tier and service plan, during each month
 - 1. The number of broadband subscribers subscribed to service(s) that does not meet the definition of basic service
- c. Changes in reseller agreements
 - i. If the COLR provided an underlying service for any resellers providing voice and/or broadband service and the agreement is terminated, the company must notify the Commission.
- d. Consumer Choice
 - i. Identify if the service areas of any of the companies identified as Qualifying Providers in the application have changed.
 - ii. Number of customers who have requested to reestablish basic service with the COLR during months 13-24 because they are unable to establish service with another provider.

1. Number of those customers whose requests were approved and reestablished basic service.
2. Number of those customers whose requests were denied and the reasons for denial.

Service Quality Metrics

The company must continue to maintain 100% compliance with all applicable service quality metrics and reporting as identified in the Pre-Application Requirements. Mere payment of fines for failure to meet GO 133-D (or its successor) standards will not be considered compliance; actual achievement of the General Order's requirements is necessary for compliance.

For regulatory purposes, including service quality standards, the company shall not be considered a COLR within the approved withdrawal area during the provisional period. However, they must continue to comply with all GO 133 standards applicable to their status as a facilities-based telephone corporation.

Revocation of Provisional COLR Withdrawal

At the conclusion of the Provisional Withdrawal Period, the Commission will evaluate the company's compliance with all the requirements of the Provisional Withdrawal period as well as the content of the required reports and consumer challenges. This data will be used to determine if the COLR obligations will be reimposed in the withdrawal area, either in whole or in part.

Parties should propose a set of "failure conditions" that would trigger the Commission to either reopen the application or reimpose the COLR obligations. Examples of specific conditions that would trigger further review could include:

- Number of unresolved consumer disputes
- Consumer complaints
- Failure to submit all required reports
- Failure to meet service quality standards identified in GO 133-D (or its successor).
- Evidence of significant change to the level of available consumer choice

If the Commission determines that substantive review or reimposition of COLR obligation is necessary, then there will be a temporary freeze on new applications for adjacent areas. Service and customer conditions are likely to be similar in adjacent regions, so prohibiting

new applications for adjacent regions until the review has been completed will prevent unnecessary and duplicative work.

Post-Withdrawal Phase

After the completion of the Provisional Withdrawal Phase, if the company plans to cease offering Basic Service or Modernized Essential Service within any part of the approved COLR withdrawal area, they must provide notice to affected customers consistent with the notice requirements described in the Pre-Application and Application Requirements sections. The notice must also include a list of Qualifying Providers offering service at the customers' service address.

V. Limited Consumer Choice – COLR Requirements

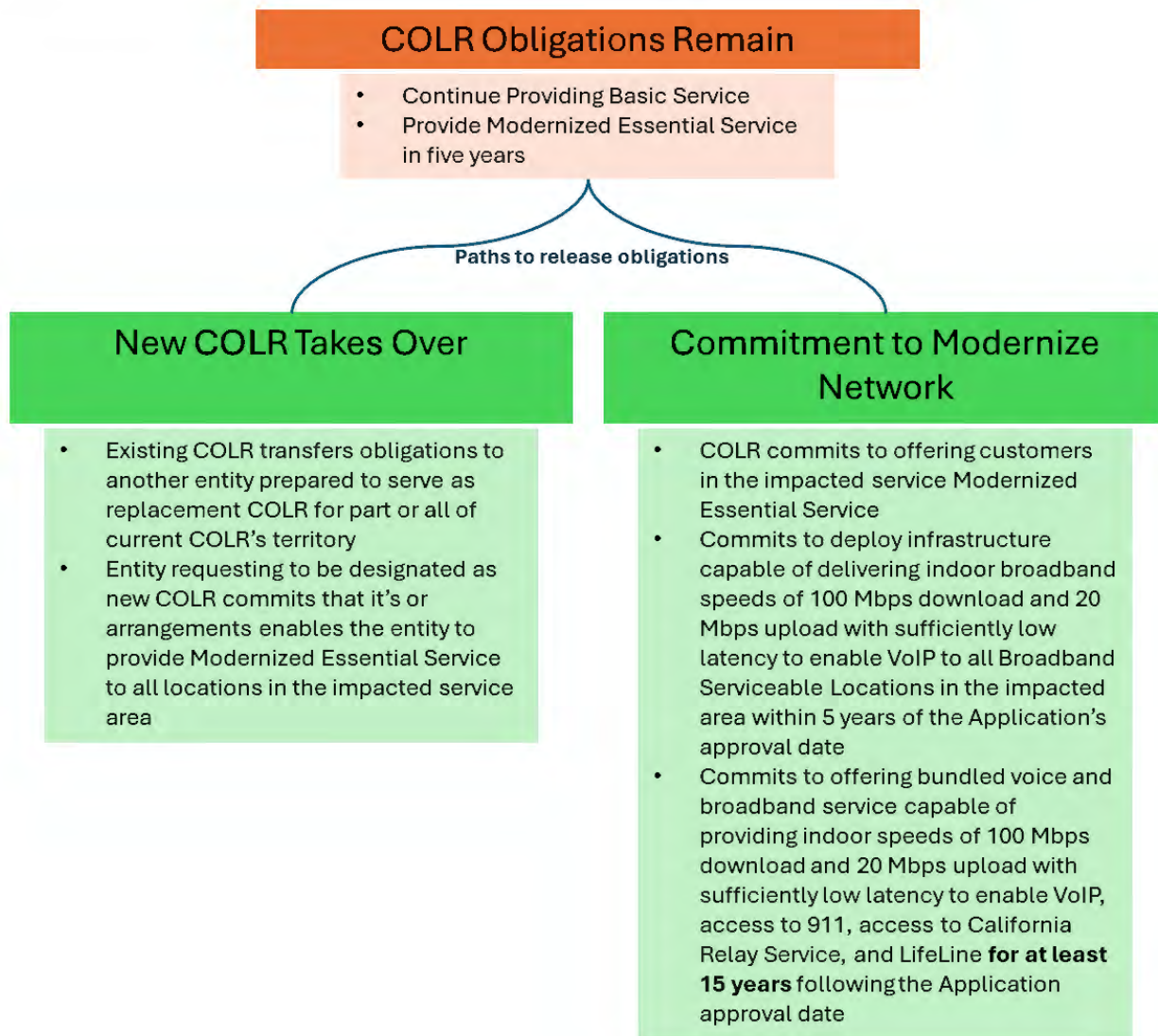
AT&T and US Telecom state that there is a high cost of maintaining legacy networks and instead of spending funds on those networks every year, those funds could be better spent upgrading their networks to “deliver the services consumers are demanding.”⁹⁶ Staff agree and recommend requiring COLRs serving areas with Limited Consumer Choice to continue as COLRs, providing basic service to all customers who request it and providing COLRs up to five years to upgrade their networks to be able to offer Modernized Essential Service.

Multiple parties in this proceeding, including the largest COLRs, have suggested that COLR obligations are not necessary to ensure ubiquitous deployment of advanced broadband networks and guarantee customers access to the elements of Modernized Essential Service.

COLRs in areas with Limited Consumer Choice who wish to apply for COLR withdrawal may do so under two scenarios only: (1) A new COLR takes over the existing COLR's obligations, or (2) the existing COLR commits to modernizing its network and offer Modernized Essential Service for no less than 15 years. COLRs should follow the same process delineated above for obtaining authorization to withdraw as COLR from Significant Consumer Choice areas in Limited Consumer Choice areas, with certain important departures from the process based on the different evidentiary showings that will be necessary for the Commission to authorize withdrawal as COLR in a Limited Consumer Choice area.

⁹⁶ See Comments of USTelecom – The Broadband Association on ALJ Ruling Regarding Comments on Topics Discussed at the August 22, 2025, Workshop, 11/21/25, p.10.

Limited Consumer Choice – COLR Requirements



New COLR Takes Over COLR Obligations

First, staff recommend retaining the existing COLR rules option for existing COLRs to transfer COLR obligations to another entity that stands ready to serve as replacement COLR for either part or all of an area for which they currently serve as COLR. The Commission in D.96-10-066 set forth a process for an entity to volunteer to be designated as COLR, which D.12-12-038 explicitly reaffirmed and readopted as an Appendix to the later decision. That process required that an entity seeking to be designated as a COLR must file an advice letter stating its intent to be considered a COLR for specific area. The Commission will consider whether the advice letter should be approved based on the following factors:

A) The facilities the carrier has in place or the arrangements that the carrier plans to enter into in order to provide basic service; and

B) the ability of the carrier to promote the goals of universal service to all customer segments throughout the COLR's service area.

Staff recommend that this process be retained, with the minor revision that an entity requesting to be designated as a COLR should be required to identify its facilities or arrangements that will enable the entity to provide the elements of Modernized Essential Service, and especially to ensure broadband is available ubiquitously throughout the requested service area over the long term. Demonstrating this capacity could include plans to deploy necessary facilities or other arrangements by seeking grant funding from state programs such as the California Advanced Services Fund (CASF) or federal programs, and the Commission could condition approval of an entity's COLR status on a binding agreement to apply for relevant grant funding.

If the Commission has granted an entity authorization to be a COLR, then existing rules allow another COLR to opt out of its obligations by advice letter. Therefore, if an existing COLR seeks to withdraw from an area with Limited Consumer Choice, it may simply seek out another entity that is willing to take on the COLR obligations and work with that entity and the Commission to ensure that entity satisfies the requirements to become a COLR. This could include negotiating with the entity to transfer facilities or entering into contractual arrangements ensuring the entity will be able to satisfy its obligations as a COLR over the long term. Once an alternative entity has obtained designation as a COLR for a given area with Limited Consumer Choice, the company that had previously acted as the COLR in the area may opt out of its obligations by filing a Tier 3 Advice Letter, which the Commission should dispose of according to the existing procedures utilized in other instances in which a COLR that was not the sole remaining COLR has sought to withdraw from its obligations, including customer notification and mass migration procedures.⁹⁷

Commitment to Modernize Network

If a COLR serving an area of Limited Consumer Choice is unable to identify an alternative entity willing to become a replacement COLR, then staff recommend

that the COLR may pursue a second approach to relinquish its COLR obligations by, on the company's own accord, committing to offering customers in the impacted area will have Modern Essential Service. This commitment should be formalized by filing an Application with the Commission, which includes the following elements:

⁹⁷ Cite Cox Resolution from ~2016 authorizing withdrawal as COLR

1. A commitment to deploy infrastructure capable of delivering indoor broadband speeds of 100 Mbps download and 20 Mbps upload and sufficient latency to enable VoIP to all Broadband Serviceable Locations in the area within 5 years of the Application's approval date.
2. A commitment to offer bundled voice and broadband service capable of providing indoor speeds of 100 Mbps download and 20 Mbps upload with sufficient latency to enable VoIP, access to 911, access to California Relay Service, and LifeLine for at least 15 years following the Application's approval date.

As part of its application, the COLR should agree to file quarterly progress reports with the Commission demonstrating its progress toward meeting the broadband deployment commitment in subsection (1) and its continued adherence to its service commitments in subsection (2). If the Commission finds at any point that the COLR is unlikely to successfully implement the plan to achieve the commitments described in (1) or that the COLR is no longer adhering to the commitments described in (2), the Commission may suspend the process by which the COLR is seeking to ultimately obtain authorization to withdraw as COLR, and the Commission may issue future orders as necessary to correct the deficiencies and enable the COLR to achieve its voluntary commitments. These orders should specify any changes to the timeline under which the COLR may ultimately be allowed to file an application seeking authorization to withdraw as COLR. In other words, if the Commission finds that the COLR will need an additional two years to implement any conditions necessary to correct identified deficiencies in deployment of broadband, then the Commission should indicate that the COLR should continue upholding its commitment under (2) for an additional two years beyond the original 15-year commitment.

When the COLR has achieved its voluntary commitments described under (1), it shall file a Tier 3 Advice Letter with the Commission demonstrating its completion of the voluntary commitments along with any documentation necessary to substantiate its claim, and the Commission should request additional data as needed to validate the claim of having satisfied its voluntary commitment. If the COLR obtains approval of the Tier 3 Advice Letter, then it should no longer be required to file the quarterly progress reports, but it should continue filing annual reports certifying its continued adherence to the commitments in (2).

If the COLR has obtained approval of the required Tier 3 Advice Letter demonstrating its successful completion of the commitments in (1) and has continued to adhere to its commitments in (2) for 14 of the required 15-year period, the COLR should file a second Tier 3 Advice Letter stating its intent to file an application no sooner than one year from the submission date of the Advice Letter requesting authorization to withdraw as the COLR for

a defined area. The Advice Letter should include documentation of the Pre-Application Requirements, and Transition Process specified above, detailed plans to conduct the required consultations and public information sessions, documentation of the Commission's approval of the previous Tier 3 Advice Letter, and documentation of the COLR's continued adherence to the commitments in (2), as well as any additional conditions to which the COLR has agreed during the 15-year period. The Commission should request additional data as needed to validate the claim of having satisfied its voluntary commitments.

These two additional routes for remaining COLRs who seek to withdraw from its obligations in Limited Consumer Choice areas advance public safety and universal access by the company committing to modernize its network and deliver reliable, modernized essential services.

VI. Areas for Further Examination

Compliance with Current COLR Rules: Denials of Basic Service

Existing COLR rules compliance and enforcement is not a scoped issue in this proceeding. Nonetheless, numerous members of the public have engaged with this proceeding to raise their concerns about challenges they have experienced in trying to obtain basic service

from their local COLR.⁹⁸ These concerns have been echoed by panelists invited to participate in workshops in this proceeding⁹⁹ as well as in formal party comments.¹⁰⁰

In 2013, the Commission ordered an examination of the telecommunications networks' performance and related services, policies, and practices of the two largest COLRs, AT&T and Frontier, to evaluate the condition of the network infrastructure, facilities, services, and

⁹⁸ "I am 47, have two young children, and have had a landline my entire life. When I recently moved I was told for the first time I could not order a landline." (Fort Bragg, CA, May 20, 2025, 8:41 pm). "I called at&t to request traditional landline telephone service for the reasons I stated above. They told me that my apartment had the usable copper lines to support landline service, but that at&t does not offer landline service anymore - only 'fiber' or 'voip' - both of which require electricity or internet or both electricity and internet." (Berkeley, CA, Jul 15, 2025, 8:57 pm). "AT&T refuses to run fiber to my address. AT&T disconnected my copper DSL with no alternative. They offer no internet service other than a terrible cell phone box alternative to my landline. I am a retired AT&T cell site technician." (Soquel, CA, Mar 17, 2025, 6:01 pm). "I recently tried to order AT&T U-verse wired internet that is not regulated by the CPUC and AT&T was persistent trying to prevent me from placing an order and would only offer AT&T Air which an AT&T Mobility cellular product and is non-regulated and there is no cell service in my house. After numerous calls and attempts I was finally able to order wired internet. If the regulations on POTS Landline are changed, AT&T would attempt to do the same to try to barricade customers from placing orders for landline POTS services, as they are notorious for mistreating their customers." (Fairfield, CA, May 13, 2025, 5:09 pm)

⁹⁹ "My employer, Frontier, has told rural customers against the law that they were not allowed to do this, that they do not service their communities." (Thomas Ham, CWA Member, Vista, CA PPH, April 9, 2025). "They are stopping sales on landlines, even though you guys haven't made a decision yet. That is happening right now, already." (Steve Duty, CWA Member, Roseville, CA PPH, April 23, 2025). "my long distance carrier, went out of business or quit or whatever they did, and I just picked up my phone that morning and I had no service. Everything basically from my house is long distance. So, I immediately called AT&T, because that's the other bill that I pay for my phone service so I was already with AT&T. I was told when I finally reached someone [...] said no in any number of ways that I could not have long distance hooked up to my house even though the line was already there, and I was paying AT&T every month for my basic service. So that went on for a long time and the various calls and people trying to help supposedly." (Holly Gustafson, Santa Rosa, CA PPH, April 30, 2025). "My property, like many others, is out of range for cell service. If the power were to go out, Wi-Fi calling would not work and we would have no way of contacting emergency services. For this reason, I requested that AT&T provide a copper landline on the property. Something I understand they are legally obligated to do as the Carrier of Last Resort. I made numerous calls to AT&T to get this landline installed and have been told at every turn that our property is ineligible for a new landline." (Kelly Dannier, Santa Rosa, CA PPH, April 30, 2025).

¹⁰⁰ "It is EQUAL's understanding that AT&T has been working on a POTS replacement "in a box" with a third-party supplier. It is not clear why ATT has not introduced this solution to market, but it is reasonable to conclude that AT&T doesn't want to bear the capital cost of this replacement equipment, hoping instead to push customers to switch to other technologies or providers (if available) due to AT&T's exceptionally poor repair service and refusal to process new orders for POTS." (Comments Of Empowering Quality Utility Access For Isolated Localities ("Equal") To Administrative Law Judge's Ruling Regarding Comments On Topics Discussed At April Workshops, June 13, 2025, p. 4.)

"Californians provided comment at public participation hearings (PPHs) and in comments submitted to the proceedings' respective docket cards. These comments include countless examples of AT&T refusing to provide service to customers within its service territory, refusing to repair service, refusing to work with customers, and trying to 10 push customers into using non-landline services." (OPENING COMMENTS OF THE UTILITY REFORM NETWORK AND CENTER FOR ACCESSIBLE TECHNOLOGY ON THE ADMINISTRATIVE LAW JUDGE'S RULING REGARDING COMMENTS ON TOPICS DISCUSSED AT APRIL WORKSHOPS, June 13, 2025, pg. 9-10.)

best practices to deliver a consistent Quality of Service with public safety grade to their customers.¹⁰¹ The resulting Network Examination was initially completed in April 2019 and was subsequently updated in a Phase II study to include data from 2018-2019, with a public version of the Phase II study released in July of 2021.¹⁰² The Network Examination observed ongoing deterioration in the service quality of voice services, included the products identified by each company as meeting their respective obligations to offer basic service as a COLR, due to persistent disinvestment in infrastructure necessary for voice service and increased investment in higher income communities and areas most heavily impacted by competition.¹⁰³ The Network Examination also identified evidence suggesting that both AT&T and Frontier had ceased active marketing of basic service, degraded service quality, and relied on successive price increases. This has provided more reason for customers to switch to mobile service exclusively while those with the greatest need for basic service (due to lack of consumer choice, lack of mobile coverage, or acute need for the reliability or affordability of basic service) have to pay more and more for wireline service whose quality is rapidly deteriorating.

Many customers continue to request basic service. Staff believe it is appropriate for the Commission to separately investigate reports of possible denials of basic service. Failure to provision basic service in COLR territory can be misconstrued as lack of demand when reporting on new customer connections. The Commission should investigate further. Such an investigation should consider what enforcement remedies may be necessary and appropriate to ensure COLRs are upholding their existing legal obligations and will continue to uphold those obligations going forward.

High Cost Fund Reform

The Commission manages two high-cost funds that provide support or subsidies in areas in California that are high-cost to serve. First is the California High Cost Fund A (CHCF-A) program. The CHCF-A was established in 1987 with Pub. Util. Code § 275.6 to minimize telephone rate disparities between rural and metropolitan areas to keep rates affordable in areas with lower population densities. CHCF-A is funded through the public purpose program access line surcharge. Currently, 10 out of 13 Small Incumbent Local Exchange Carriers (Small ILECS), which serve as COLRs in their designated territory, participate in the CHCF-A program and receive CHCF-A support. The CHCF-A program, through its subsidies, allows the Small ILECs to earn a rate-of-return on its plant that can be used to provide both voice and broadband service. Participating Small ILECs are allowed to

¹⁰¹ D. 13-02-023. [Cite]

¹⁰² Cite both versions of Network Exam

¹⁰³ Citation to pages 6-8 of Network Exam Phase II

“include all reasonable investments necessary to provide for the delivery of high-quality voice communication services and the deployment of broadband-capable facilities in the rate base of small independent telephone corporations.”¹⁰⁴ To this end, the CHCF-A already provides support for COLR network modernization and the offering of Modernized Essential Services.

Second is the California High Cost Fund B (CHCF-B). The CHCF-B was established in 1996, with statutory authorization now contained within Pub. Util. Code § 276.5 to support telephone service in rural, high-cost areas served by the larger ILECS. The goal is to create fair and equitable local rate structures to minimize telephone rate disparities between rural and metropolitan areas to keep rates affordable in areas with lower population density. CHCF-B support is calculated based on the number of qualifying access lines.

COLRs eligible for CHCF-B support are Pacific Bell (dba AT&T California), Frontier California, Inc., Frontier Communications of the Southwest, and Citizens Telecommunications Company of CA (dba Frontier Communications of California). Like CHCF-A, CHCF-B is also funded through the public purpose program access line surcharge, although it currently receives no allocation due to a fund surplus. In fiscal year 2024-25, CHCF-B had a budget of \$22.4 million and supported 38,887 lines at an average of \$13.13 per month or \$157.56 per year for each line.

Over the past decade, the number of lines supported by CHCF-B has declined, in part due to the decline in subscriptions to basic service. The Commission in D.07-09-020 reduced the overall magnitude of subsidized support by raising the high-cost benchmark from between \$20-\$25, depending on the COLR, to a ubiquitous \$36 per line. This led to a large reduction in lines receiving support.

In that same Decision, the CPUC asked whether it should reconsider the definition of basic residential service and include an enhanced service such as broadband. Citizens (now Frontier) suggested the CHCF-B balance could be used for statewide broadband deployment initiatives and/or service to underserved areas in the state.¹⁰⁵ The CPUC went on to say that in a broadband environment, “telephone service is simply one of many data streams flowing over the broadband connection” and it concluded that it would be imprudent to continue to only support legacy networks of COLRs through the universal service programs.¹⁰⁶

¹⁰⁴ Public Utilities Code 275.6(c)(6)

¹⁰⁵ D.07-09-020, September 13, 2007, p.59; issued in R.06-06-028.

¹⁰⁶ D.07-09-020, September 13, 2007, p.65; issued in R.06-06-028.

Given where we are today, in 2025, where voice services are supported through broadband-capable networks, Staff recommends the Commission consider reforming, through a separate proceeding, the CHCF-B program, to support Modernized Essential Service.

Attachment A: Consideration of Basic Service Elements

Current Basic Service Element 1: Voice-Grade Connection

In 1996, the Commission adopted multiple elements of basic service relating to a customer's ability to place and receive voice calls over all distances.¹⁰⁷ In 2012, the Commission consolidated these elements into a single element with the intent of ensuring basic service customers may send and receive voice calls both locally and by longer distance.¹⁰⁸ The Commission further emphasized the technology neutral quality of this definition, requiring only "a voice-grade connection from the customer residence to the public switched telephone network or its successor network," which could be satisfied utilizing wireless technology or Voice over Internet Protocol (VoIP), in addition to the traditional method of supplying POTS over twisted pair copper wiring.¹⁰⁹ The ability to make and receive voice-grade telephone communications continues to be a cornerstone element of essential services, even in a modernized communications marketplace, and it is therefore essential to participation in modern society and advances public safety. A voice-grade connection from a customer's premises enables the customer to promptly call for and receive help during emergencies or natural disasters and plays an irreplaceable and vital role in the daily functioning of education, health care, and California's economy. It enables real-time two-way communication with other individuals or entities, enabling forms of communication that are not easily replaceable with other forms of communication enabled by advanced networks, such as text-based platforms. Survey data indicates that many customers continue to prefer voice calling as a method of communication, especially older customers who may lack familiarity or agility utilizing alternatives to voice communication.¹¹⁰ Furthermore, even in a modernized communications network, voice service utilizing VoIP can fill an important role when customers are unable to utilize communications services requiring higher bandwidth,¹¹¹ either due to insufficient availability of broadband infrastructure, inability to pay for higher-priced services, or network conditions.

¹⁰⁷ D. 96-10-066, Appendix B, Page 444.

¹⁰⁸ D. 12-12-038, Page 19.

¹⁰⁹ D. 12-12-038, Page 20.

¹¹⁰ McQueen Analytics, November 2024. "Divided by Device: The Need to Connect, Generational Differences, and Tech Displacement," Page 4.

<https://mcqueenanalytics.com/hubfs/Communication%20Whitepaper%20-%20Divided%20by%20Device.pdf>

¹¹¹ Vonage, June 22, 2025. "VoIP Bandwidth: How Much Do I Need?"

<https://www.vonage.com/resources/articles/voip-bandwidth/>

A substantial majority of customers utilize voice calling services. Furthermore, Californians continue to subscribe to voice services at very high rates. As of July 2025, telephone corporations reported to the Commission nearly 54 million access lines¹¹² for purposes of remitting required surcharges, meaning there were more subscriptions for voice services than California population, well above the suggested 65 percent penetration threshold identified in D. 96-10-066 and suggesting near ubiquitous adoption of voice services.

Some parties cite changing customer demands for voice services to suggest voice services may no longer be considered essential. For instance, AT&T states in opening comments that consumers prefer advanced wireless or broadband voice options compared to POTS and that fewer than 5% of households in its service territory subscribe to POTS basic service.¹¹³ However, this suggestion does not refute the fact that access to a voice-grade connection, which may be provided through a range of technologies or services, remains widely adopted and utilized by Californians. Therefore, while it is true that customers may be obtaining voice services using a range of technology types, this only reinforces the importance of access to reliable voice services for Californians.

The benefits of guaranteeing voice-grade connections to any customer within a COLR's territory outweigh the potential costs. Ensuring customers can access emergency services, health care, and other economic, educational, and governmental resources increase the safety and well-being of all Californians and benefit the state as a whole, resulting in incalculable, ongoing benefits accrued to the public. Conversely, each COLR is already obligated to ensure access to a reliable voice connection for any customer within its territory, meaning this element should not imply any incremental additional costs to the COLR. To the extent COLRs face costs associated with maintaining legacy wireline connections used to satisfy this obligation, they are encouraged to explore deployment of advanced, broadband-capable technology that may have lower long-term maintenance costs. Additionally, they may apply for grant funding to deploy infrastructure enabling these services through federal and state programs.¹¹⁴

¹¹² Data obtained through the Telecommunications and User Fees Filing System (TUFFS) as of October 16, 2025.

¹¹³ Opening Comments of AT&T on Administrative Law Judge's Ruling Regarding Comments on Topics Discussed at April Workshop, pg. 3.

¹¹⁴ The California Advanced Service Fund (CASF) is an ongoing program that issues grants for the deployment of broadband networks. The California High-Cost Fund A (CHCF-A) program funds reasonable broadband capable investments for participating smaller COLRs. The Commission also administers the BEAD Program; a federal initiative aimed at providing high-speed internet access in underserved and unserved areas.

In reaffirming the need for a reliable, voice-grade connection as an element of basic service, the Commission in D. 12-12-038 clarified that it was the obligation of providers to promptly restore service if “at any time” a basic service customer fails to receive a voice-grade connection.¹¹⁵ Multiple parties in this proceeding have argued that the essence of this requirement, the need for customers to be able to rely on voice services during an emergency or power outage means that providers must adhere to the Commission’s requirement of 72 hours backup power throughout networks in High Fire Threat Districts 2 and 3.¹¹⁶ Multiple parties further argue that, in applying this requirement to COLRs, the Commission should require COLRs to offer Customer-Premises Equipment (CPE) to ensure that VoIP service continues to work during a power outage.¹¹⁷ CD Staff agree with these recommendations, and note that the Federal Communications Commission (FCC) already took action in 2015 to establish a federal requirement that facilities-based fixed residential voice service providers offer “at least one option that provides a minimum of twenty-four hours of standby backup power” for CPE, as well as specified information at the point of sale and annually on service limitations, expected backup power duration, purchase and replacement options, and subscriber backup power self-testing and monitoring instructions.¹¹⁸ CD Staff recommend including language specifying that VoIP offered as a component of Modernized Essential Service must also include the opportunity for customers to obtain CPE from the COLR capable of 72 hours of backup power. COLRs should be able to satisfy this requirement by clearly communicating to the customer at the point of sale (or within 30 days of a Decision in this proceeding for existing customers), and annually thereafter, the following minimum information:

- 1) The availability of customer-premises equipment from the COLR providing backup power for at least 72 hours
- 2) Limitations of voice service with and without backup power during a power outage
- 3) Specific steps the customer may take to obtain the CPE from the COLR

¹¹⁵ D. 12-12-038, Page 21, and at Appendix A, Basic Service Element 1(e).

¹¹⁶ Public Advocates Office Comments on the Administrative Law Judge’s Ruling Regarding Comments on Topics Discussed at April Workshops, June 13, 2025. Pages 8-10. Opening Comments of the Utility Reform Network and Center for Accessible Technology on the Administrative Law Judge’s Ruling Regarding Comments on Topics Discussed at April Workshops, June 13, 2025. Pages 14-16. Comments of Empowering Quality Utility Access for Isolated Localities To Administrative Law Judge’s Ruling Regarding Comments on Topics Discussed at April Workshops, June 13, 2025. Page 7.

¹¹⁷ Ibid.

¹¹⁸ Federal Communications Commission Report and Order 15-98 issued August 7, 2015, in FCC Public Safety Docket No. 14-174 on Ensuring Continuity of 911 Communications.
<https://docs.fcc.gov/public/attachments/FCC-15-98A1.pdf>

- 4) A clear, explicit statement of any costs, with no hidden fees or otherwise confusing terms
- 5) Expected duration of backup power provided by identified CPE
- 6) Proper usage and storage conditions for the backup power CPE
- 7) Instructions for a customer to conduct self-testing of the CPE and ensure it is still functioning properly
- 8) Contact information for specific customer service staff of the COLR to respond to customer questions about CPE and backup power

As voice service remains an essential element of the modern telecommunications marketplace, CD staff recommend retaining and minimally revising this element to ensure access to a voice-grade, reliable connection enabling two-way calling across all distances through the PSTN. This element should be adopted as part of the new definition of modernized essential services.

Current Basic Service Element 2: Free Access to 911

The Commission established free access to emergency services through 911 and Enhanced 911 (E911), as an element of basic service in D. 96-10-066, and it reaffirmed the importance of this element in D. 12-12-038, adopting only minimal clarifying changes.¹¹⁹ As with Element 1 above relating to a voice-grade connection to the PSTN (and all elements of basic service), the Commission does not and has not dictated the use of any particular network design or technology to satisfy the requirement for 911/E911 access in the context of basic service, though federal law includes specific provisions establishing the obligation of wireless¹²⁰ and interconnected VoIP providers¹²¹ to ensure 911 access for customers. Emergency 911, including E911 and Next Generation (NG) 911 as it is implemented, remains essential for participation in society. Without it, customers are unable to contact emergency services or report hazardous conditions to appropriate authorities, creating acute danger for themselves and their communities. This expectation that every person has access to 911 is essential to the functioning of emergency services and modern society itself, and this expectation is reflected in federal¹²² and state law¹²³ establishing the 911 system and the requirements for providers to transmit 911 calls to appropriate Public

¹¹⁹ D. 12-12-038, Page 23.

¹²⁰ 47 C.F.R. § 9.10. 911

¹²¹ 47 C.F.R. § 9.11 and § 9.12.

¹²² 47 C.F.R. § 9.4

¹²³ Public Utilities Code Section 2896.1 requires mobile providers to provide 911 access to emergency services.

Safety Answering Points (PSAP). Accordingly, the “subscription rate” to 911 is essentially 100 percent, since all telephone corporations are required to appropriately transmit calls to the appropriate PSAP. Moreover, the 911 system is broadly utilized by Californians, with over 25 million 911 calls made annually, including more than 1 million via non-VoIP wireline voice connection in 2024.¹²⁴

The benefits of requiring 911 access are practically beyond measure, with many lives saved and damage to public interests avoided because customers are able to contact appropriate law enforcement, fire, and medical services at their precise moment of need. While there are costs to providers for ensuring access and location tracking functionality, these costs do not approach the benefits of 911 access. Moreover, since providers are required by law to ensure access to 911, including E911 and NG911, including this as an element of Modernized Essential Service should not create any new incremental costs.

Ubiquitous access to 911 must be mandated and cannot be left to market incentives to guarantee. Beyond the unacceptable risks to public safety created by the possibility of unpredictable gaps in the emergency response system, consumers may not universally consider whether 911 is a component of voice services due to the longstanding and widely held assumption of its ubiquity. Free access to 911 remains necessary to ensure universal service and protect public safety however, it should be amended to state free access to emergency services through 911, including all successor versions of the 911 system such as Enhanced 911 and Next Generation 911.

Current Basic Service Element 3: Directory Services

In D. 96-10-066, the Commission set forth several basic service elements ensuring access to various directory services. The Commission subsequently reaffirmed and consolidated these into a single element in D. 12-12-038, requiring COLR providers to offer directory assistance, one free white pages listing, and a free white pages directory.

There is little evidence that access to directory services is essential to participation in modern society. Online search platforms allow quick access to contact information, services, and resources without needing to use traditional directory services. People with hearing, vision, or mobility disabilities can search and access information on their own with

¹²⁴ California Governor’s Office of Emergency Services, Presentation to 911 Advisory Board, February 2025. <https://www.caloes.ca.gov/wp-content/uploads/PSC/Documents/911-Advisory-Board-Slides-February-2025.pdf>

the use of text-to-speech tools, screen readers, and voice assistants.¹²⁵ Customers can ask a digital assistant to locate a number, schedule a service, or read out directions without having to use directory services. Online databases maintained by advocacy groups, government websites, and disability resource centers have reduced the need for static directory listings. Online directory services are easier to keep up-to-date, and comply with Americans with Disabilities Act (ADA) requirements to provide real-time, inclusive access.¹²⁶ While some parties in this proceeding express concern about accessibility of this information without this element of basic service,¹²⁷ CD staff find that the ability to look up telephone numbers and other information through online tools and applications means that access to directory services is not a necessary element of Modernized Essential Service. Californians who don't have access to a broadband connection or cell phone coverage can dial 211 to access information, referrals, and essential community services.¹²⁸

In recent years, the number of customers accessing the various elements of directory services required by this basic service element has declined substantially. AT&T reported 51,000 voice calls requesting directory assistance in California in 2024, an 18% decline over 2023.¹²⁹ Frontier showed a similar decrease for the same years.¹³⁰ Consolidated reported a decline of over 71% in requests for directory assistance between 2020 and 2024.¹³¹ In a similar vein, TDS Companies had a 69.5% decline in requests for directory services from 2020 to 2024.¹³² Traditional landline usage nationwide has dropped to below 15% of households in 2024, reducing reliance on directory assistance.¹³³

¹²⁵ Federal Register. [Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities](#). April 4, 2024.

¹²⁶ U.S. Department of Justice Civil Rights Division. March 18, 2024. <https://www.ada.gov/resources/web-guidance>

¹²⁷ Opening Comments of TURN/CforAT/CWA on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 27.

¹²⁸ Decision 03-02-029 in 2002 determined that 211 services are to be rolled out by county and establishing administrative procedures for implementing 211 dialing in California.

¹²⁹ Opening Comments of AT&T on Administrative Law Judge's Ruling Regarding Comments on Topics Discussed at the August Workshop, pg. 32.

¹³⁰ Opening Comments of Frontier on Administrative Law Judge's Ruling Regarding Comments on Topics Discussed at the August Workshop, pg. 11.

¹³¹ Opening Comments of Consolidated on Administrative Law Judge's Ruling Regarding Comments on Topics Discussed at the August Workshop, pg. 11 -12.

¹³² Opening Comments of TDS Companies on Administrative Law Judge's Ruling Regarding Comments on Topics Discussed at the August Workshop, pg. 8.

¹³³ Federal Communications Commission, Voice Telephone Services: Status as of June 30, 2024. Accessed December 2, 2025. [Voice Telephone Services Report | Federal Communications Commission](#).

Indeed, despite the existing obligation to offer access to these services as part of basic service, customers have dramatically reduced use of directory services.

According to multiple parties, the benefits of ensuring access to these directory services do not appear to outweigh the costs. EQUAL advises the Commission to remove antiquated or competitively available requirements like directory services to make it feasible for smaller competitors to serve as replacement COLRs, and that should not include extras like printed books or directory assistance.¹³⁴ Consolidated states that the requirement to provide directory services is outdated and tangential to the principles of basic service which should be limited to voice-grade connections and free unlimited access to 911/E911.¹³⁵ TDS Companies state that the Commission should modernize and streamline the definition of basic service by removing unnecessary elements like directory services, arguing modifications will reduce competitive disparities between COLRs and their competitors.¹³⁶ Independent Small LECs state that directory services and the requirement to provide “white pages” listings are outdated and no longer needed.¹³⁷ CD Staff agree that this element is not necessary and recommend not including this element of basic service as an element of Modernized Essential Service.

Current Basic Service Element 4: Billing Provisions

The fourth basic service element includes various provisions related to the ways in which COLR providers may structure pricing of basic service plans (without directly establishing the actual rates). The Commission in D.12-12-038 revised requirements from D. 96-10-066 into the following billing provisions related to basic service:

- (a) Providers of basic service must offer customers the option to receive unlimited incoming calls without incurring a per-minute or per-call charge.
- (b) Carriers offering basic service must offer a flat rate option for unlimited outgoing calls that at a minimum mirrors the local exchange or an equivalent or larger sized local calling area in which the basic service customer resides.

¹³⁴ Opening Comments of EQUAL on R.24-06-012 to consider changes to the Commission’s Carrier of Last Resort rules, September 30, 2024, pg. 16.

¹³⁵ Opening Comments of Consolidated Communications on R.24-06-012 to consider changes to the Commission’s Carrier of Last Resort rules, September 30, 2024, pg. 8.

¹³⁶ Opening Comments of The TDS Companies on R.24-06-012 to consider changes to the Commission’s Carrier of Last Resort rules, September 30, 2024, pg. 1-2.

¹³⁷ Opening Comments of The Independent Small LECs on R.24-06-012 to consider changes to the Commission’s Carrier of Last Resort rules, September 30, 2024, pg. 9.

- (c) Basic service must be offered on a non-discriminatory basis to all residential households within the provider's service territory. A carrier may satisfy this obligation using different technologies throughout its service territory.
- (d) COLR providers must offer Lifeline rates on a non-discriminatory basis to any customers meeting Lifeline eligibility requirements residing within the service territory where the provider offers basic service.
- (e) Carriers providing basic service must offer an option with monthly rates and without contract or early termination penalties.
- (f) Carriers may offer added features and/or enhanced service elements without additional charge(s) as part of a basic service offering. For example, carriers must not obligate customers to also subscribe to service bundles that require subscription to data and/or video services as a condition of receiving basic service.
- (g) As of January 1, 2011, the Commission no longer imposes caps on basic rates. A COLR serving in a high-cost area, however, will continue to be required to certify that its basic rate in a designated high-cost area does not exceed 150% of the highest basic rate charged by a COLR in California outside of the high-cost area.

The billing provisions established in D. 96-10-066 and clarified by D. 12-12-038 highlight the reality that affordability is an inseparable component of access to essential services. If essential service is bundled with provisions that effectively ensure service is unaffordable, such as punitive fees, utilization caps, or confusing billing terms like non-monthly billing intervals, then basic service will cease to be a credible option for customers, and the usefulness of any other individual elements of essential service would be degraded. It is clear that the spirit of these billing provisions remain necessary to guarantee universal access to Modernized Essential Services, though staff recommend modernizing and consolidating the existing elements in several ways.

The most critical sub-element of the basic service billing provisions is the requirement to offer LifeLine rates on a non-discriminatory basis to any customer. LifeLine is a universal service program established pursuant to legislation¹³⁸ designed to preserve the availability of high-quality essential communication services to low-income customers at affordable prices through statewide subsidies. LifeLine provisions became a basic service element pursuant to D.96-10-066 and were retained in the Commission's revised definition adopted

¹³⁸ Pub. Util. Code Section 871.7. The Moore Universal Telephone Service Act, enacted in 1984, was intended to offer high quality basic telephone service at affordable rates to the greatest number of California residents.

in D.12-12-038. COLR providers must meet the LifeLine requirements adopted in D.14-01-036 and offer LifeLine services and rates to eligible customers within its service territory.

LifeLine offers a monthly discount on wireline or wireless telephone service and bundled broadband and voice service, making it more accessible for families at or below 150% of the federal poverty level or enrolled in public assistance programs.¹³⁹ Without this subsidy, many eligible households would be unable to maintain service, even if COLRs technically provide it. In a state prone to wildfires, earthquakes, and areas with spotty cell coverage, reliable voice service is literally a lifeline. LifeLine helps maintain active phone lines for seniors, people with disabilities, and residents in remote regions, ensuring they can reach emergency services when it matters most.

LifeLine helps cover both voice and broadband expenses, enabling low-income Californians to access critical online resources, such as employment, telehealth services, and education, all of which are essential for participation in society. Operating networks in rural or mountainous areas increases costs for carriers and LifeLine helps offset these expenses by ensuring a base of discounted subscribers, supporting continued service in sparsely populated communities. Without LifeLine credits carriers may struggle to meet requirements for affordable service, potentially leading to service discontinuations or rate increases. The benefits of the LifeLine program clearly outweigh the costs and remain necessary.

The LifeLine service element is essential to providing essential communication service to Californians and should be retained in a definition of Modernized Essential Service. Its importance is recognized in related Commission rules, such as the Consumer Bill of Rights Governing Telecommunications Services established in GO 168¹⁴⁰ that reinforces the importance of LifeLine to affordability of essential communication services. In 2024, the LifeLine program enabled approximately 1.7 million participants to purchase affordable communications services, of which 25% were aged 65 and older.¹⁴¹

¹³⁹ CPUC, [California LifeLine Eligibility](https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/lifeline/california-lifeline-eligibility), 2025. <https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/lifeline/california-lifeline-eligibility>

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¹⁴¹ 2024 Annual Report, California LifeLine Program, March 2025.

TDS Companies¹⁴², Independent Small LECs¹⁴³, California Farm Bureau Federation¹⁴⁴, TURN/CWA/CforAT¹⁴⁵, Public Advocates¹⁴⁶, and SBUA¹⁴⁷ argue LifeLine is critical to essential service. The Independent Small LECs also agree with retaining LifeLine as an essential service, with minor caveats.¹⁴⁸ TURN/CforAT state that under current rules, providers who are not COLRs that voluntarily participate in LifeLine can leave the program with just 30 days' notice, making them unreliable as COLR alternatives.¹⁴⁹ In order for customers to access the benefits of LifeLine, they must be able to obtain essential service from a provider that participates in LifeLine. Without a mandate for COLRs to participate in LifeLine, it is possible that many customers would find themselves unable to obtain essential service at their location from a provider participating in LifeLine. Broad party support makes clear that mandatory LifeLine participation by COLRs, and the associated obligation to offer LifeLine rates to all eligible customers, should be retained as an element of Modern Essential Service.

LifeLine remains a critical element of the Commission's mandate to ensure universal service by providing income-qualified customers with a critical discount improving the affordability of essential services, especially as customers increasingly require broadband services to satisfy their essential communications needs. Cal Advocates argues the requirement to offer LifeLine should include broadband bundled with voice services.¹⁵⁰ CD Staff recommend adopting this requirement, as it is essential that customers eligible for LifeLine be afforded the opportunity to fully obtain the benefits afforded by access to the advanced communication services that the LifeLine program is intended to accomplish. It would be a significant obstacle to universal service if LifeLine-eligible customers were barred from accessing bundled voice and broadband service or standalone broadband service that they are otherwise eligible for simply due to its lack of availability at their

¹⁴² Opening Comments of TDS Companies on R.24-06-012 to consider changes to the Commission's COLR rules, September 30, 2024, pg. 9.

¹⁴³ Opening Comments of The Independent Small LECs on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 6.

¹⁴⁴ Opening Comments of the California Farm Bureau Federation on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, September 30, 2024, pg. 7.

¹⁴⁵ Opening Comments of TURN/CforAT/CWA on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 26.

¹⁴⁶ Opening Comments of The Public Advocates Office on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, September 30, 2024, pg. 77.

¹⁴⁷ Opening Comments of Small Business Utility Advocates on R.24-06-012 on April Workshops, June 13, 2025, pg. 6.

¹⁴⁸ Opening Comments of The Independent Small LECs on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 10.

¹⁴⁹ Opening Comments of TURN/CforAT on R.24-06-012 April Workshops, June 13, 2025, pg. 6.

¹⁵⁰ Opening Comments of The Public Advocates Office on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, September 30, 2024, pg. 14.

location. Therefore, as the Commission revises the definition of basic service into a new Modernized Essential Service, it should retain a requirement that COLRs provide customers a LifeLine discount on bundled voice and broadband service or standalone broadband service for eligible customers.

Sub-elements (a), (b), (c), (e), and (f) relate to the need for basic service customers to have predictable billing based on reasonable terms and conditions. The requirements contain provisions equalizing rates for calling between different service territories. COLRs do not incur additional costs for what used to be classified as long-distance or toll calls.

Customers will see a single, tariffed flat-rate local service charge from the COLR. Those calls remain the responsibility of interexchange carriers which pay the COLR regulated access charges for originating or terminating calls in the COLR's local exchange area.¹⁵¹ As the vast majority of voice traffic continues to migrate from the legacy telephone network to an IP-based platform, the cost of connecting local versus long-distance calls has diminished substantially, and almost no providers continue to charge different rates for "local" or "long-distance" calls.¹⁵² Sub-element (g) is not strictly necessary as a matter of Modernized Essential Service and should be removed from the definition.

Costs associated with ensuring essential service is offered to customers using predictable and understandable billing practices clearly outweigh the benefits of ensuring customers are able to understand the price they pay for service and terms of service associated with essential service. Ensuring customers have clear and transparent information to subscribe to a straightforwardly priced plan is essential to guarantee the benefits of essential service and, by extension, participation in modern society. Therefore, the intent of these billing provisions are necessary yet can be met through a more straightforward requirement that Modernized Essential Service be available for a simple rate clearly articulated to the customer and on the company's website, with no hidden fees. The information should, at minimum, include rates, charges, and terms and conditions of Modernized Essential Service. A "simple" rate should be flat rather than measured, with no delineation between the cost to make or receive calls across any distance, and the customer should be billed on a regular, monthly basis. COLRs should not charge customers early termination or contract fees. The rate should be charged on a non-discriminatory basis to all customers.

CD Staff recommend remaining vigilant regarding the terms and conditions and pricing practices of providers of Modernized Essential Service. COLRs must submit a Tier 1 Advice

¹⁵¹ FCC, 47 CFR Part 51& 69 – Reciprocal Compensation for Transport and Termination of Telecommunications Traffic, August 29, 2025.

¹⁵² World Metrics. "Long Distance Statistics: Long-distance calling market shifts toward internet, VoIP, mobile, and efficiency". Accessed October 29, 2025. <https://worldmetrics.org/long-distance-statistics/>

Letter (AL) to the Commission for approval detailing the terms and conditions of the Modernized Essential Service. To the extent evidence is gathered that demonstrates providers are employing unusual, confusing, or predatory practices with respect to billing of Modernized Essential Service and thereby discouraging customers from subscribing, the Commission should take action to disallow unreasonable behaviors.

Current Basic Service Element 5: 800 and 8YY Toll-Free Services

The fifth basic service element is to provide customers with access to 800 or 800-like (8YY) toll-free services without incurring per-call or per-minute toll charges. 8YY calls provide customers with important and essential social, health care, and financial services, as well as recreational options. Many social services, government agencies, and nonprofits still use 8YY numbers for free access to help lines, particularly for at-risk communities. Not everyone has unlimited mobile plans or reliable broadband connections. Basic service requirements for toll-free 8YY services guarantee access to vital services for customers in rural areas or those with limited financial resources. Access to 800 or 8YY toll-free services remains relevant and necessary to ensure universal service. CD staff recommend retaining this as an element of Modernized Essential Service.

In addition to the existing requirements related to 800 and 8YY numbers, CD Staff agree with commenters¹⁵³ who argue that this requirement should be expanded to encompass free access to all public services offered through 3-digit numbers, such as 211 and 988.¹⁵⁴ Customers in counties where 211 access is available receive information and obtain referrals to physical and mental resources; housing, utility, food, and employment assistance; suicide and crisis interventions; and disaster preparedness, response, and recovery during declared emergencies. There is no evidence that providing such access would create any significant costs for providers. Access to these services is necessary for participation in modern society. The reason these services exist in a 3-digit dialing format is to encourage all members of the public to access the services with maximum ease. Excluding certain customers from freely accessing these services by charging per-minute fees or similar practices would imperil universal service by creating barriers to customers accessing critical public services. Modernized Essential Services should include free access to all 3-digit public service numbers in addition to 8YY toll-free numbers.

Current Basic Service Element 6: California Relay Service

The Commission in D.12-12-036 retained the sixth basic service element, Telephone Relay Service, that was originally defined in Decision 96-10-066. State law requires the

¹⁵³ Opening Comments of TURN/CWA on R.24-06-012 April Workshops, June 13, 2025, p. 13.

¹⁵⁴ The 988 surcharge was established under California Assembly Bill 988, effective January 1, 2023.

Commission to implement a program to provide a dual-party relay system with reasonable access to telephone subscribers who are deaf or hard of hearing.¹⁵⁵ The California Connect program, also known as the Deaf and Disabled Telecommunications Program (DDTP), offers five relay services¹⁵⁶, including the California Relay Service (CRS) that connects trained operators with people who are deaf, hard of hearing, or speech-disabled, where operators relay conversations back and forth over the telephone. As telephone companies transition away from traditional landlines this service element should be expanded to include access to Internet Protocol (IP) enabled relay services. IP-based relay services are an effective alternative means of accessing relay communications services that do not depend on specialized equipment and only require access to the internet via a computer, smartphone, tablet, or other internet-enabled device.¹⁵⁷ Internet Protocol Relay Service (IP Relay) functions like traditional relay services by allowing users to communicate by text, and Video Relay Service (VRS)¹⁵⁸ allows persons with hearing or speech disabilities who use American Sign Language make voice calls with help from trained communications assistants. Users must register with an IP Relay provider to receive a ten-digit number to make and receive calls and to enable location information to help 911 operators route calls to the nearest emergency services providers.¹⁵⁹

CRS is a vital service that was used for 297,805 calls in Fiscal Year 2023-2024.¹⁶⁰ Multiple parties in this proceeding, including the Small LECs,¹⁶¹ TDS Companies,¹⁶² Cal Advocates,¹⁶³ and the Joint Commenters,¹⁶⁴ agree that this should remain as an essential component of Modernized Essential Service. Because CRS is critical to advancing public safety and ensuring Californians with hearing, speaking, mobility, or cognitive disabilities have access to cost-free communication tools, CD Staff recommend retaining this as an element of Modernized Essential Service. Moreover, as AT&T details in length in their Comments on the August 2025 Workshop, much of the equipment offered through California Connect is

¹⁵⁵ Public Utilities Code Section 2881(b)

¹⁵⁶ California Connect relay services include California Relay Service (CRS); Traditional Relay Service (TRS); Speech-to-Speech (STS) Relay Service; Visually Assisted Speech-to-Speech (VA STS); and Captioned Telephone Service (CapTel).

¹⁵⁷ FCC. "Internet Protocol Relay Service (IP Relay)." Accessed October 29, 2025. <https://www.fcc.gov/ip-relay>

¹⁵⁸ FCC. "Video Relay Service (VRS)." Accessed October 31, 2025. <https://www.fcc.gov/vrs>

¹⁵⁹ 47 CFR §64.611 (2025).

¹⁶⁰ California Connect Annual Report 2023-2024, March 1, 2025, pg. 7.

¹⁶¹ Opening Comments of Independent Small LECs on R.24-06-012 to consider changes to the Commission's COLR rules, September 30, 2024, pg. 6.

¹⁶² Opening Comments of TDS Companies on R.24-06-012 to consider changes to the Commission's COLR rules, September 30, 2024, pg. 9.

¹⁶³ Opening Comments of Public Advocates on R.24-06-012 April Workshops, June 13, 2025, pg. 7.

¹⁶⁴ Opening Comments of TURN/CforAT/CWA on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 23.

either IP compatible or can be configured to be compatible with additional applications or equipment.¹⁶⁵

Current Basic Service Element 7: Customer Service Information

The Commission in D. 96-10-066 and D. 12-12-038 included requirements for COLRs to ensure free access to customer service for information about LifeLine, including service activation, service termination, service repair, and bill inquiries. As observed above, LifeLine remains a critical element of essential service and should continue to be required as part of Modernized Essential Service. For all the same reasons LifeLine is critical to advancing public safety and ensuring customers can participate in modern society, it is vital that COLRs provide customer service information in an accessible and free manner to enable eligible customers to subscribe to LifeLine. There is no evidence presented by any party that these requirements create costs that outweigh the obvious public benefits of ensuring eligible customers receive access to affordable, essential services. Therefore, CD Staff recommend retaining this requirement as an element of Modernized Essential Service.

Basic Service Element 8: One-Time Free Blocking and Billing Adjustments

The eighth basic service element defined in D.12-12-038 is aimed at blocking calls to 900/976 information numbers which were introduced in the late 1980s and early 1990s. It provides for one-time free blocking for information services, and one-time billing adjustments for charges incurred inadvertently, mistakenly, or without authorization.¹⁶⁶ Unscrupulous marketing practices resulted in unauthorized fees with no clear way to dispute the charges. Widespread use of broadband service, however, has led virtually all major U.S. carriers to discontinue most third-party billing options.¹⁶⁷ The growing demand for digital purchases funneled through app stores, credit/debit cards and carrier-branded wallets has reduced the need for third-party billing by communications companies.¹⁶⁸ This element is no longer necessary and should be removed since the specific market practices

¹⁶⁵ See Pacific Bell Telephone Company D/B/A AT&T California's (U1001C) Opening Comments on Administrative Law Judge's Ruling Regarding Comments on Topics Discussed at August Workshop, 11/21/25, Attachment A.

¹⁶⁶ D.12-12-038, Section 4, Revised Basic Service Requirements, December 20, 2012, pg. 18.

¹⁶⁷ FCC, Protecting Consumers From Unauthorized Carrier Changes and Related Unauthorized Charges: [Notice of Proposed Rulemaking, FCC 25-41A1, WC Docket No. 22-377, Section D.28 adopted July 24, 2025.](#)

¹⁶⁸ McKinsey & Company, *The State of Consumer Digital Payments in 2024* (New York: McKinsey & Company, 2024), <https://www.mckinsey.com/capabilities/financial-services/our-insights/the-state-of-consumer-digital-payments-in-2024>.

that led the Commission to adopt this protection are no longer present, and modern billing practices have more robust, built-in safeguards,¹⁶⁹

Evidence suggests requests to utilize this element are extremely rare and not widely used by customers.¹⁷⁰ Accordingly, this requirement creates costs in the form of competitive disparities between COLRs and other providers that do not appear to generate significant benefits for customers¹⁷¹ and are unnecessary due to other existing consumer protection requirements.¹⁷² Therefore, staff recommend that this element not be included in the elements of Modernized Essential Service.

Current Basic Service Element 9: Operator Services

The ninth basic service element defined in D.12-12-038 requires COLR providers to offer free access to operator services. A substantial majority of customers now use internet search engines and apps to look up phone numbers or information on an on-demand basis and no longer require operator assistance. David McGarty, the president of US Directory Assistance, stated in early 2023 that calls to operators have decreased by 90% since 1996 with no signs of a change in trends.¹⁷³ Major carriers, like AT&T, have already phased out operator services for VoIP and mobile customers nationally, and other providers have shifted to offering these services on a fee basis given the diminishingly small number of requests received for these services.¹⁷⁴ Given the year-over-year decline in calls for operator assistance, the industry-wide national trend toward eliminating operator services generally, and the demonstrated customer preference for looking up information online, operator services are no longer necessary and should be removed.

The Rural County Representatives of California (RCRC) state that the COLR Basic Service definition should remove antiquated requirements such as operator services to facilitate competitive replacements.¹⁷⁵ TDS Companies state there is no reason to require operator service and removing this element will reduce the competitive disparity between COLRs

¹⁶⁹ 47 C.F.R. § 64.2401 (2023), <https://www.ecfr.gov/current/title-47/chapter-I/subchapter-B/part-64/subpart-Y/section-64.2401>.

¹⁷⁰ Opening Comments of The Independent Small LECs on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 9.

¹⁷¹ Opening Comments of TDS Companies on R.24-06-012 to consider changes to the Commission's COLR rules, September 30, 2024, pg. 1.

¹⁷² Opening Comments of The Independent Small LECs on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 9.

¹⁷³ CNN, January 9, 2023. <https://www.cnn.com/2023/01/07/business/telephone-operators-411-att-ctpr/index.html>

¹⁷⁴ Ibid.

¹⁷⁵ Reply Comments of The Rural County Representatives of California on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, June 20, 2024, pg. 5.

and competitors.¹⁷⁶ The Independent Small LECs comment that operator services are used very infrequently with most issues are now handled by online resources.¹⁷⁷ AT&T opines that revising the definition of Basic Service is not needed, including operator services, due to the technological advancements in broadband voice services.¹⁷⁸ Frontier argues that operator services, unlike other elements of basic service that should be retained in modernized essential service, are not necessary or widely utilized.¹⁷⁹

Public Advocates state that essential features like operator services support the health, safety, and daily needs of consumers and must remain.¹⁸⁰ TURN/CWA/CforAT state that operator services are still necessary for individuals with mobility disabilities and removal of this requirement would result in denial of service.¹⁸¹ CD Staff disagrees with these claims because IP-enabled relay services can connect people with disabilities to communications assistants to facilitate two-way communication in a similar manner to traditional operator or relay services.¹⁸² IP Relay offers improved accessibility and flexibility via web pages, applications, and devices that are compatible with assistive technologies such as switch or mouth interfaces, adaptive keyboards, screen readers, and magnification or eye-tracking software to effectively communicate and interact with others.¹⁸³

¹⁷⁶ Opening Comments of TDS Companies on R.24-06-012 to consider changes to the Commission's COLR rules, September 30, 2024, pg. 9

¹⁷⁷ Opening Comments of The Independent Small LECs on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 9

¹⁷⁸ Reply Comments of AT&T on R.24-06-012 on April Workshops, June 20, 2025, pg. 12-13.

¹⁷⁹ Opening Comments of Frontier on R.24-06-012 to consider changes to the Commission's COLR rules, September 30, 2024, pg. 5.

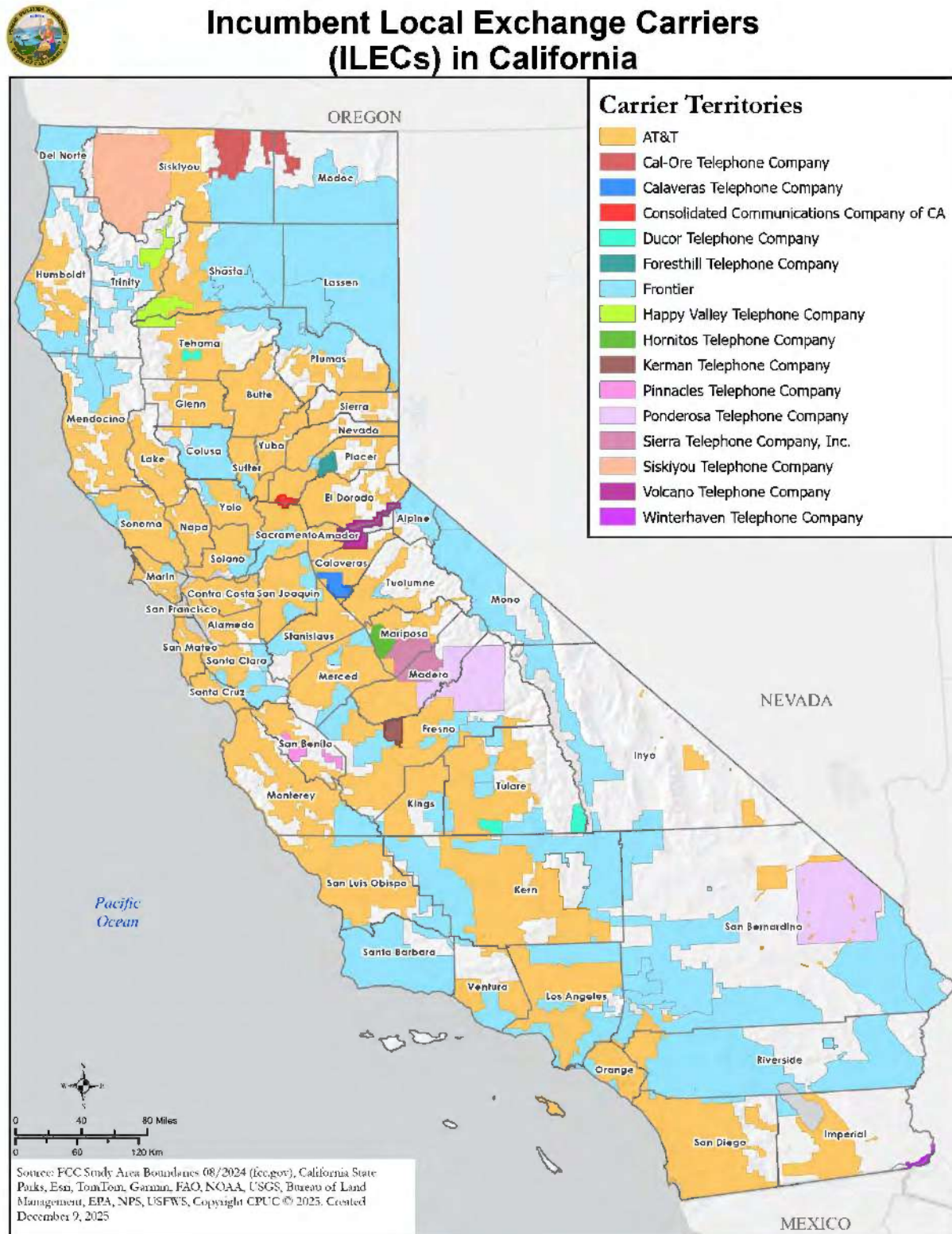
¹⁸⁰ Opening Comments of The Public Advocates Office on R.24-06-012 April 2025 Workshops, June 13, pg. 6.

¹⁸¹ Opening Comments of TURN/CforAT/CWA on R.24-06-012 to consider changes to the Commission's Carrier of Last Resort rules, October 30, 2024, pg. 26-27.

¹⁸² FCC. "IP-Relay Service." Accessed October 27, 2025. <https://www.fcc.gov/consumers/guides/ip-relay-service>.

¹⁸³ Enabling Devices. "Different Types of Adaptive Switches for Individuals with Disabilities". Accessed October 27, 2025. <https://enablingdevices.com/blog/different-types-of-adaptive-switches-for-individuals-with-disabilities/>.

Attachment B: Map of COLRs in California



Attachment C: Application Phase Requirements

The COLR must provide sufficient documentation for the Commission to validate that it has met all its pre-application requirements.

Proof that COLR has met all Pre-Application Phase Requirements

Documentation that the COLR has met the requirement to consult with all affected governments and hold a sufficient number of meaningful public information sessions

The COLR must provide written information that includes, but is not limited to, details of when meetings were held and with whom, as well as summaries of the topics discussed. The COLR should also submit copies of all informational materials that were shared with governments and the public at the meetings.

If the COLR was unable to conduct a meeting with an affected government, in its application it shall identify all attempts to contact and facilitate a meeting with any non-responsive government, steps taken to ensure the success of the contact attempts and plans to continue attempting to conduct meetings after filing the application.

Documentation of Compliance with General Order 133-D or its successor

The Pre-Application rules require that prior to submitting an application for relinquishment of its COLR obligations, a COLR must have been in compliance with all applicable service quality metrics set forth in GO 133-D, or any successor to that GO, for a minimum of 24 months preceding the filing date of the application or have a CPUC-approved Corrective Action Plan with which the company is in full compliance. Payment of fines for non-compliance that occurred within the last 24 months does not satisfy this requirement. Additionally, the company must have completed payment of any fines and completed all approved reinvestment projects resulting from service quality violations that occurred more than 24 months before filing.

To demonstrate compliance with this requirement, the COLR must submit complete copies of its GO 133 quarterly reports for the 24 months immediately preceding the filing date of the application.

If the COLR is fulfilling this requirement through an approved Corrective Action Plan, they must demonstrate that they are in compliance with all included obligations, including all construction and infrastructure deployment commitments. This includes meeting the schedule included in the approved timeline and meeting all identified service quality performance benchmarks. COLRs that have failed to make substantial, documented progress towards meeting service quality standards for six or more months during the

assessment phase of the Corrective Action Plan will not be eligible to apply for COLR withdrawal.¹⁸⁴

To demonstrate compliance with the Corrective Action Plan, the COLR must submit the following documentation:

1. The approved Corrective Action Plan
2. Copies of all quarterly reports required by the Corrective Action Plan
3. Narrative explanation of how the COLR has met all obligations and milestones to date as well as how they plan to meet all remaining requirements.
4. For construction and infrastructure deployment commitments, the COLR must submit evidence that the work has been completed such as work orders, invoices, and photos,

Additionally, for any periods where the COLR did not meet standards, they must submit a copy of the AL they previously submitted to the Commission with the calculation of the fines and evidence that the AL was accepted. For violations that were resolved via a resolution, the COLR must also include a copy of the resolution. Lastly, the COLR must submit evidence that any penalty has been resolved. If the penalty was a fine, the COLR must submit proof of payment. If a resolution approved a reinvestment plan in lieu of a fine, the COLR must submit evidence that all construction required to complete the reinvestment project has been completed and the new plant is in service.

Documentation of Compliance with all Surcharge and User Fee Reporting and Compliance Filings

To apply to relinquish its COLR obligation, the company must be current on surcharge and user fee reporting and remittance. This means that the company must pay all surcharges and user fees owed for all reporting periods for which the deadline has passed. This includes completing payment of any interest and/or penalties or citations for past non-compliance.

As part of the application, the COLR must submit a printout/screenshot from their TUFFS account that demonstrates that they have no outstanding balance for surcharges or User Fees for any period since April 2023. COLRs will not be required to submit evidence for periods prior to April 2023 with the application, but they will still be responsible for

¹⁸⁴ The “assessment phase” applies to Corrective Action Plans adopted under General Order GO-133 E (effective January 1, 2027).

ensuring that they have no outstanding balance for any period, including those before April 2023. If the Commission finds that the COLR owes surcharges or user fees for any period, including those before April 2023, the application may be denied.

Additionally, if the COLR has received any citations since April 2023, they must include a copy of the citation and evidence that they have paid all associated penalties. While the COLR will not be required to submit proof of payment for citations issued prior to April 2023 as part of the initial applications, failure to pay fines for any citation, including those prior to April 2023, will be grounds for denial of the Application.

Documentation that the COLR is in compliance with all applicable Commission reporting requirements.

The company must also be compliant with all compliance filings including, but not limited to:

1. Annual Reports (Annual Report on Operations and Financials and Annual Affiliate Transaction Report)
2. Any required tariff filings
3. Performance bond

The COLR must provide evidence that they have submitted each of the required filings to the Commission for the 24 months prior to the Application. Additionally, they must provide evidence that the required performance bond is still valid as of the date the application is filed.

Documentation that the COLR is in compliance with all applicable network resiliency requirements.

The COLR must demonstrate that they are in compliance with all applicable network resiliency requirements, including those in D.21-02-029, for a minimum of 24 months prior to the Application filing date.

Therefore, as part of the application, the COLR must include the following:

- Copies of the annual Communications Resiliency Plans that were submitted to the Commission and evidence that the Advice Letter submission was accepted
- Copies of their annual emergency operations plans (pursuant to Section 5.9.2 of D.21-09-029) and evidence that those plans were submitted to the Commission on time

Data on Affected Customers

As part of its application, the COLR should provide data on all customers who could be impacted by a withdrawal of the COLR from providing essential communication services or retiring relevant facilities in a given area. At minimum, this should include the total customers in the impacted area, the number of POTS customers, the number of customers with burglar alarms and fire alarms served by copper wiring, how many calls were completed utilizing California Relay Service or 911 using POTS, how many California Connect customers reside within the area, how many highway callboxes are served by the COLR in the impacted area and the type of technology the callbox uses, such as copper wiring in the area. Staff recommend continuing to develop a comprehensive list of data to be reported as part of a withdrawal application based on feedback from customers of legacy services and providers of ancillary services.

Evidence of Significant Consumer Choice

As part of its application, the COLR should include evidence demonstrating that all areas for which it is requesting relinquishment of its obligation to serve meet the definition of “Significant Consumer Choice.” At minimum, this should include identifying all Qualifying Providers, the basis upon which those providers are identified as Qualifying Providers, and a detailed description of the areas served by these providers. Relevant evidence here may include, but is not limited to, the use of another provider’s website to determine whether service is available at a given location and the suite of services offered by the provider, the FCC National Broadband Map, the California Interactive Broadband Map, or direct statements by the Qualifying Provider demonstrating availability of Modern Essential Service equivalent within part or all of the area. Any mapping resources should be provided to Commission staff as a Shapefile or other format directed by staff to enable rigorous review of the underlying data in the application.

If the COLR intends to use availability of mobile providers as evidence of significant consumer choice within an area, the COLR shall provide documentation of the results of its own testing of mobile service availability and usability throughout the area utilizing the Commission’s CalSpeed app. The sample size will depend on the volume and scope of the application as well as the population density. Mobile coverage is typically represented for broadband on maps, so testing will be necessary to verify voice coverage and usability. “Usability” means a reliable, sustained connection that supports voice communication rather than a “bursty” internet connection that quickly sends and receives data. Staff seek

input on the number of tests¹⁸⁵ and the testing method¹⁸⁶ needed to validate indoor mobile voice coverage for a specific area. For example, every impacted Census Block in an application should have a certain number of mobile tests if the application is relying on mobile coverage as one of the criteria for withdrawal.

When identifying all Qualifying Providers, the COLR must disclose if those providers resell the COLR's service or rely in any way on the COLR's network or facilities.

The COLR is responsible for providing sufficient data so that the Commission can verify the existence of Significant Consumer Choice in the area.

The application shall identify if the COLR intends to cease offering wireline voice service (using any technology) in any areas affected by the application within 5 years of approval of the application.

The application shall identify all resellers that offer voice service using any part of the COLR's wireline network or facilities in the withdrawal region. This must include all resellers, regardless of the type of service they offer to the end-user.

The application shall include a proposed customer notification plan. This shall include a detailed description of the methods and timing by which it proposes to make all residents and small business customers within the area aware of the pending application and, if approved, the relinquishment of the provider's obligation to serve the area. While it is recognized that relinquishment of the COLR obligation does not necessarily imply discontinuation of Basic Service, the COLR should use the Commission's CLEC Mass Migration Process as a model for informing customers of potential changes in the obligation to serve them. The COLR shall also include sample text of notices to be provided to customers to make them aware of the potential changes. Such text shall include an explicit notification that the end of the COLR obligation may result in discontinuation of Basic Service in the future. At minimum, the COLR's customer notification plan shall include specific language notifying customers of their opportunities to participate in the

¹⁸⁵ The sample size should address how to spread tests across all Census Blocks and households in the withdrawal area such that all households are represented, and the number of tests allocated reflects population (e.g. large rural blocks with smaller populations should still be allocated enough tests). The sample should be spread proportionally across urban, rural small, rural large, and Tribal Census Blocks.

¹⁸⁶ The testing method should address how to estimate indoor voice quality without having to enter private homes to conduct testing. This might be achieved by using outdoor measurements collected from CalSPEED (latency, jitter, and packet loss), filtering for Reference Signal Received Power, and calculating a Mean Opinion Score (MOS). Example: IF (Effective latency<160 OR RSRP<XX), where XX is set based on an appropriate value for LTE, or the 5G-specific frequency bands in use. Test results with MOS greater than 4 would qualify as "acceptable."

forthcoming proceeding, such as at Public Participation Hearings or by filing formal comments.

Customer Input Opportunity

The public should have an opportunity to identify and report errors in the data utilized in a COLR's application for withdrawal. To provide an additional mechanism to ensure that data used to demonstrate the presence of Significant Consumer Choice is entirely accurate, the application should include a specific mechanism allowing customers and interested stakeholders or members of the public to challenge such a determination. This Customer Input Process should be broadly publicized to ensure maximum level of public awareness and participation from any impacted individuals. At minimum, the process should include a public website¹⁸⁷ allowing customers to identify specific locations for which they believe the submitted data is inaccurate.

Customers disputing the availability of one or more Qualifying Providers' offerings at a specific location (or multiple locations in the case of a bulk challenge) may provide evidence including, but not limited to, information obtained from a provider's public website (such as a search for services available at a given address or the list of service offerings for a given provider), engineering data on the provider's network architecture, alternative mapping data, or testing of mobile or fixed service availability.

Customer Notification Plan

As part of its application, the COLR should provide a detailed customer notification plan demonstrating how it will notify all affected customers of its application, provide opportunities for customers to engage with the application and share information on alternative providers offering Modernized Essential Services. This plan should also address how the COLR intends to support customers in the subsequent Transition Process if the Commission approves its application with specific considerations for customer support c in ESJ communities.

At minimum, the Customer Notification Plan should include a commitment that, upon filing the application, the COLR shall provide written notice to all customers in the affected application area, including customers currently subscribed to basic service or have subscribed to basic service at any point in the five years preceding the application's filing date. This notice should inform customers of the application's filing and opportunities to

¹⁸⁷ This information should either be on the same website that the COLR created to comply with the Pre-Application requirement or should be accessible from the Pre-Application website via a link.

engage in the proceeding. This written notice should include contact information for the Commission's Public Advisor's Office.¹⁸⁸ The COLR should also make available on its website an address-searchable map of the affected area to ensure that customers or interested members of the public may determine whether specific locations are included within the application area, and it should provide a link to this map in any written notification provided to customers about the pending application.

¹⁸⁸ <https://www.cpuc.ca.gov/about-cpuc/divisions/news-and-public-information-office/public-advisors-office>

Attachment D: California Consumer Choice

Data on communications service provider broadband availability is subject to many limitations, including overstatement of indoor coverage or speeds, incomplete data on service plan offerings, and visual misrepresentation based on geographic and man-made structure realities on the ground. Initial analysis of provider data by staff suggests there are approximately 1,425,344 housing units with access to at least two Qualified Providers excluding the COLR.

The data also suggests that many Californians have limited consumer choice that may include no consumer choice of providers for essential communication services. These households often are in lower-income or rural parts of state where there is little or no competition. For those areas, COLR obligations continue to play a crucial role in ensuring every Californian has access to essential communications services. Without such obligations, communications service providers may limit access to service based solely on financial considerations.

Summary:

Consumer Choice is estimated both throughout the State and according to each COLR's territory using the most recent (at time of analysis) FCC broadband availability. The FCC data is used to estimate how many Broadband Serviceable Locations (BSLs) have Significant and Limited Consumer Choice:

1. Significant Consumer Choice – 2+ Qualified Providers (excluding the COLR, COLR is present at any broadband speed) -OR- 1 Qualified Provider (excluding the COLR, COLR is present at any broadband speed) plus ubiquitous, reliable coverage by 2 facilities-based mobile providers (subject to proof of service).

The above must include at least one wireless and one wireline LifeLine provider, excluding the COLR.

2. Limited Consumer Choice – Only the COLR offers wireline service (COLR is present at any broadband speed) -OR- only the COLR (COLR is present below speeds of 100/20 Mbps) and one other Qualified Provider plus fewer than 2 facilities-based mobile providers offer ubiquitous, reliable service (subject to proof of service).

A Qualified Provider of fixed wireline service offers both voice service and broadband speeds of minimum 100/20 Megabytes Per Second (Mbps). Additional data is needed for determining if, and where, a wireline broadband provider offers voice or VOIP services. The analysis found that of the total 16,330,908 units (all categories) in the FCC data for

California, 15,452,993 units (94.63%) receive at least 100/20 Mbps speeds through wireline technology by one or more providers.

Significant Choice:

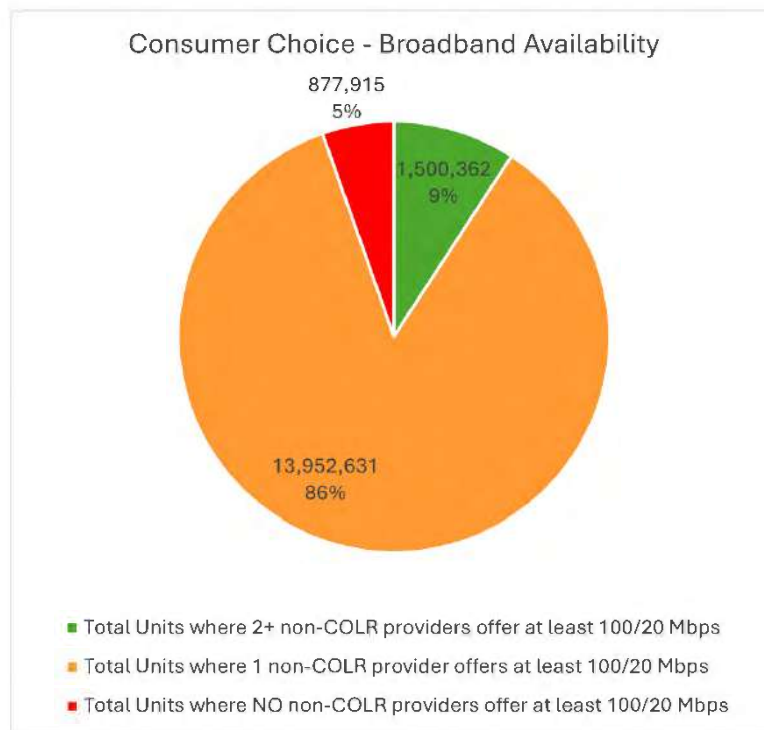
There are 1,500,362 units (9.19%) where 2+ non-COLR providers offer broadband speeds of at least 100/20 through wireline technology and a COLR offers broadband of any speed.

There are 13,952,631 units (85.44%) where 1 non-COLR provider offers broadband speeds of at least 100/20 Mbps through wireline technology and a COLR offers broadband of any speed. Of these, there are 5,416,677 (33.17%) units where the present COLR offers broadband speeds of at least 100/20 Mbps also.

Limited Choice:

There are 877,915 units (5.38%) where only the COLR offers wireline service of any speed. Additionally, there are 8,535,954 units (52.27%) where one non-COLR Qualified Provider offers broadband of at least 100/20 Mbps and where the COLR is present but offering broadband at speeds below 100/20 Mbps.

The following chart shows the level of Consumer Choice according to non-COLR broadband availability – excluding LifeLine status:



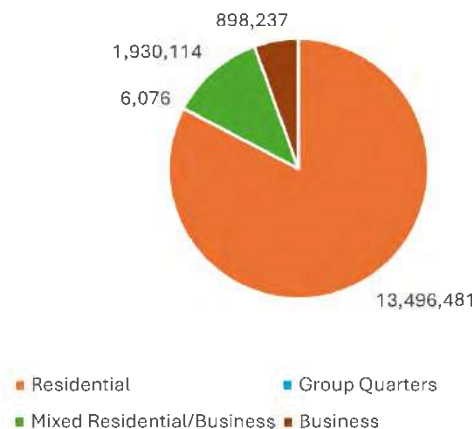
If the FCC broadband availability data only is considered, this leaves an estimated 1,500,362 units (~9% of statewide total) with Significant Choice and an additional

13,952,631 units (85.44%) subject to proof of service for mobile coverage. These numbers are estimates subject to proof for the availability of ‘ubiquitous, reliable coverage by 2 facilities-based mobile providers’ as required in the Significant Consumer Choice categorization – which could change the overall count of units expected to be eligible for relinquishment significantly.

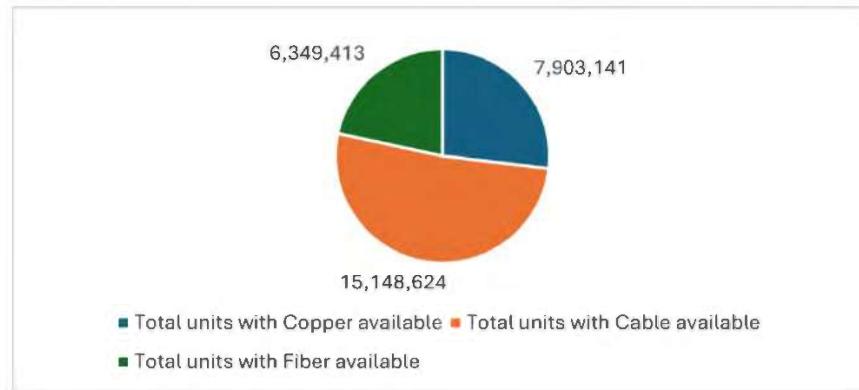
Data Sources:

FCC Broadband Availability

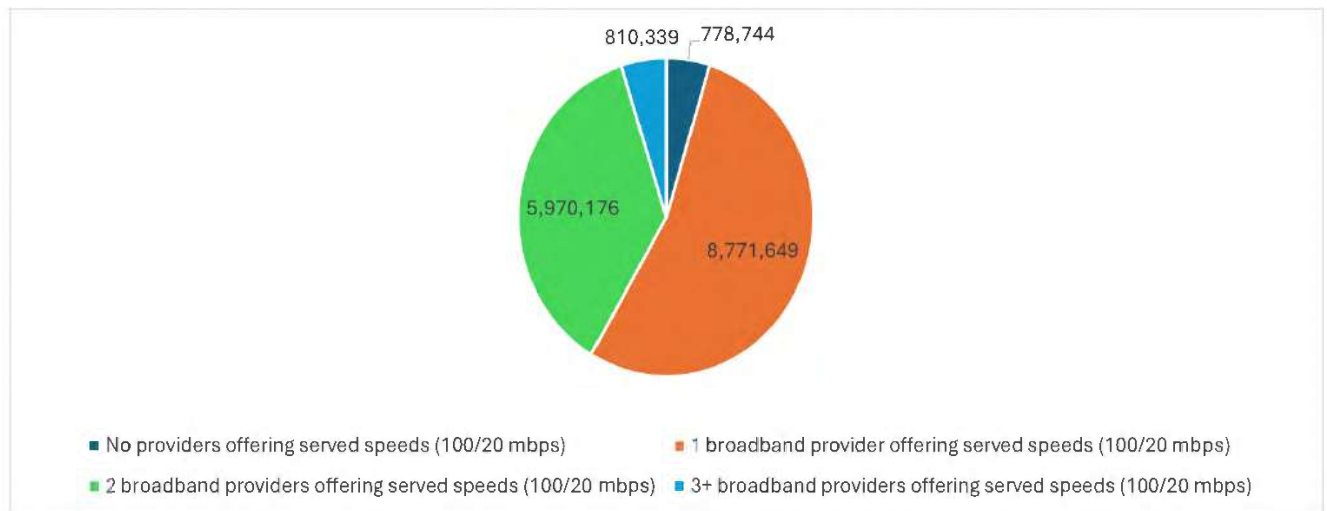
The FCC broadband availability is a location-level fabric comprised of georeferenced locations (BSLs) downloadable from: [Home | FCC National Broadband Map](#). The BSLs are any location where a broadband provider can show, according to their own data as validated by the FCC, that they can deliver fixed wireline or wireless service, within 10 days of receiving a service request. In addition to technology and speed information, each BSL carries information about building type, land use coding, associated provider names, and unit count at the BSL. Each BSL can represent 1 or more units of a single code, depending on if the BSL represents a business, apartment building, single-family dwelling, or other. The sum of all building-residential code types represents the unit count for the state, the majority of which are ‘housing units’ (Residential and Mixed Residential/Business Use comprise 94% of the total units), and the remaining of which are Business units (5.5%) and Group Quarters (0.04%). The total count of housing units according to FCC data differs slightly from U.S. Census 2024 estimated count of Housing Units. The following shows the counts and relative share of each building type:



Only wireline technologies (Copper, Cable, Fiber) are considered as valid for determining if a provider is qualified.



The number of providers per a unit is determined by the count of unique providers offering wireline technology at served speeds of at least 100 Mbps download and 20 Mbps upload.



COLR Territories

COLR territories are sourced from the FCC ([Study Area Boundary Data | Federal Communications Commission](#)). These boundaries were last updated in September 2024.

LifeLine Program Availability

The availability of Wireline and Wireless LifeLine providers is determined by Zip Code, according to data from the California LifeLine program website ([Welcome to California LifeLine - California LifeLine](#)).

Consumer Choice Estimation Method:

FCC Broadband Availability

- a. Download FCC broadband availability tables for each wireline technology for California as of December 2024.
- b. Merge availability tables into one table to use for identifying BSLs with Significant Choice, Limited Choice, and No Choice (19,066,770 total records representing all BSLs with Copper, Cable, and Fiber available)
- c. Join to FCC Fabric from December 2024 to georeferenced availability and identify BSLs without any wireline service (10,225,583 unique BSLs for CA representing 16,330,908 total units)
- d. Calculate how many unique broadband providers serve each BSL at any speed and how many unique broadband providers offer served speeds.
- e. Calculate how many units are represented by 0,1,2, and 3+ providers of each category, including COLR affiliates (any speed and served speeds only):

Unique Providers Available	Total Units	Percentage (of Statewide total)
0	563,146	3.45
1	3,898,318	23.87
2	10,539,515	64.54
3+	1,329,929	8.14

Unique Providers offering 100/20 Mbps down/up speeds	Total Units	Percentage (of Statewide total)
0	778,744	4.77
1	8,771,649	53.71
2	5,970,176	36.56
3+	810,339	4.96

COLR Coverage

- a. Spatially join COLR territories (using FCC ILEC Study Area Boundaries) to fabric
- b. Calculate how many BSLs and units are covered by each COLR (any BSL within a COLR territory boundary is assumed to be covered by that COLR for basic service).
- c. Calculate where a COLR-affiliated broadband company offers broadband at any speed and at served speeds (100/20 Mbps) using a dictionary that pairs COLR Holding Companies with known affiliated broadband companies, according to their names as reported to the FCC Broadband Data Collection:

COLR Holding Company	Affiliate Broadband Company name according to FCC Availability
Frontier Communications Corporation	Frontier
Calaveras Communications Company	CALTEL Connections
LICT Corporation	Cal-Ore Communications, Inc.
Varcomm Holdings, Inc.	Ducor Telephone Company, Varcomm Broadband
Sebastian Enterprises	Foresthill Telephone, Kerman Telephone, AUDEAMUS
Ponderosa Communications, Inc.	Ponderosa Edge, The Ponderosa Internet
Consolidated Communications, Inc.	Consolidated Communications, Fidium Fiber
Sierra Tel Communications Group	Sierra Telephone Company, Inc.
Siskiyou Communications, Inc.	The Siskiyou Telephone Co
Volcano Communications Company	Volcano Vision
Bryan Family Inc.	Pinnacles Telephone Co.

AT&T Inc.	AT&T

- d. Re-calculate unique number of broadband providers serving each BSL, removing COLR broadband providers.

California LifeLine Coverage

- a. Using CA LifeLine provider coverage by Zip code table, as provided by the CPUC CA LifeLine team, identify which BSLs receive service from each Lifeline provider by joining table to BSL fabric based on Zip code field.
- b. Calculate served unit count based on whether BSL receives wireless or wireline coverage from LifeLine providers based on lists of Wireline and Wireless providers – COLR removed.

Non-COLR Wireline Providers: 'Charter', and 'Cox.'

Wireless Providers: 'AirVoice', 'AmeriMex', 'Assurance Wireless', 'Boomerang', 'ConnectTo', 'EnhancedComm', 'Frontier SWWC', 'Global Connections', 'i-wireless', 'SBC', 'Tag Mobile', 'Telrite', 'Telscape', 'Tracfone', 'American Broadband', 'ExcessTelecom', 'Infiniti', 'Red Pocket', 'DISH Wireless', 'SequoiaWireless'

Consumer Choice

- a. Consumer Choice using FCC Broadband only:
 - i. Calculate where FCC Availability shows there are at least 2 non-COLR broadband providers offering at least 100/20 Mbps speeds using wireline technology AND a COLR affiliate offers any broadband speeds using wireline technology.
 - ii. Calculate where FCC Availability shows there is 1 non-COLR broadband provider offering at least 100/20 Mbps using wireline technology AND a COLR affiliate offers any broadband speeds using wireline technology.
 - iii. Calculate where FCC availability shows there is 1 non-COLR broadband provider offering at least 100/20 Mbps using wireline technology AND a COLR affiliate offers broadband speeds of at least 100/20 Mbps using wireline technology.
 - ii. Calculate where FCC Availability shows only a COLR affiliate offers broadband at any speed, or where only a COLR affiliate offers broadband at speeds below 100/20 Mbps AND one non-COLR broadband provider offers served speeds using wireline technology.
- b. Consumer Choice using FCC Broadband and LifeLine availability:

Carrier of Last Resort Staff Proposal

Rulemaking R.24-06-012

Calculate sum of units according to criteria above with the addition of where there is both
Wireless and Wireline LifeLine coverage.

(END ATTACHMENT A)

EXHIBIT G

GENERAL ORDER 96-B

[Provisions adopted by Decision (D.) 01-07-026 (July 12, 2001),
D.02-01-038 (January 9, 2002), D.05-01-032 (January 13, 2005),
D.07-01-024 (January 25, 2007), D.07-09-019 (September 6, 2007),
D.08-05-019 (May 15, 2008), Resolution ALJ-221 (August 21, 2008),
Resolution W-4749 (March 26, 2009), and D.09-04-005 (April 16, 2009)
Resolution T-17327 (January 12, 2012)
Resolution ALJ-346 (May 10, 2018)]

GENERAL RULES

INDUSTRY SPECIFIC RULES

ENERGY INDUSTRY RULES

WATER INDUSTRY RULES

TELECOMMUNICATIONS INDUSTRY RULES

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GENERAL RULES

1. Overview of the General Order

1.1. Structure; Purpose; Applicability

This General Order contains General Rules, Energy Industry Rules, Telecommunications Industry Rules, and Water Industry Rules. The General Rules govern advice letters and information-only submittals to the Commission by public utilities that are gas, electrical, telephone, water, sewer system, pipeline, or heat corporations, as defined in the Public Utilities Code, as well as certain matters submitted to the Commission by certain non-utilities subject to limited regulation by the Commission. The General Rules also govern applications for rehearing and petitions for modification of a resolution regardless of whether the resolution was initiated by advice letter.

The Industry Rules have limited applicability. The Energy Industry Rules apply to gas, electrical, pipeline, and heat corporations and to load-serving entities as defined in Public Utilities Code Section 380. The Telecommunications Industry Rules apply to telephone corporations. The Water Industry Rules apply to water and sewer system corporations. Within their respective industries, the Industry Rules may create rules specific to a particular type of utility or advice letter. Also, for purposes of advice letter review, the Industry Rules will contain three tiers that will distinguish, for the respective Industry Divisions, between those kinds of advice letters subject to disposition under General Rule 7.6.1 (Industry Division disposition) and those subject to disposition under General Rule 7.6.2 (disposition by resolution). The Industry Rules may contain additional tiers as needed for efficient advice letter review or implementation of a statute or Commission order.

The Industry Rules reflect the different needs and conditions within the specified utility industries and segments of those industries, especially as competition develops regarding some services formerly provided by utility monopolies. The respective Industry Rules may differ from each other, and may make distinctions within the covered industry, so long as these differences are consistent with these General Rules. An Industry Rule may differ from the otherwise applicable General Rule to the extent authorized by General Rule or other Commission order.

The provisions of this General Order govern only those informal matters submitted on or after July 1, 2007. However, the Commission at any time may require a utility to revise all or a part of its tariffs to conform with this General Order.

1.2 Utilities Operating in Different Utility Industries

If a utility provides services within two or more of the covered industries (Energy, Telecommunications, Water), the utility shall comply with each of the Industry Rules applicable to the respective services. In addition, if a utility provides two or more types of utility service covered in this General Order (electrical, natural gas, heat, pipeline; telephone; water, sewer system), the utility shall comply with the requirements of General Rules 8 to 8.5.8 by means of separate tariffs for each type of utility service provided.

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1.3 Construction; Waiver or Variance

The General Rules and Industry Rules shall be liberally construed to secure just, speedy, and inexpensive handling of informal matters, as set forth in this General Order. The Commission in a specific instance may authorize an exception to the operation of this General Order where appropriate. In a specific instance and for good cause, the Director of the appropriate Industry Division may shorten the protest and reply period under the General Rules.

1.4 Amendments

Each Industry Division's Industry Rules may be amended independently of these General Rules or the Industry Rules of the other Industry Divisions. Whenever any part of the Industry Rules must be amended to ensure consistency with applicable statutes and Commission orders, the appropriate Industry Division will draft proposed amendments to those rules. The Commission may adopt the amendments by resolution, with such modification as the Commission deems appropriate, following notice and an opportunity to comment on the proposed amendments. All amendments and the complete text of this General Order will be published at the Commission's Internet site.

1.5 Computation of Time

When these rules set a time limit for performance of an act, the time is computed by excluding the first day (i.e., the day of the act or event from which the designated time begins to run) and including the last day. If the last day does not fall on a business day, the time limit is extended to include the first business day thereafter.

2. Code of Ethics

Rule 1.1 ("Code of Ethics") of the Commission's Rules of Practice and Procedure (California Code of Regulations, Title 20, Division 1, Chapter 1) shall apply to all matters governed by these rules.

3. Definitions

The definitions apply to the following terms when used in the General Rules and the Industry Rules. Unless otherwise required by context, use of the singular includes the plural.

3.1 Advice Letter

"Advice letter" means (1) an informal request by a utility for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility's tariffs then in effect, and (2) a compliance submittal by a load-serving entity pursuant to Public Utilities Code Section 380.

3.2 Daily Calendar; Date of Submittal

"Daily Calendar" means the Daily Calendar published by the Commission and reported on the Internet at www.cpuc.ca.gov. "Date of Submittal," when referring to an advice letter, means the day on which the reviewing Industry Division received the advice letter.

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3.3 Day; Business Day

“Day” means a calendar day. “Business Day” means a calendar day except for Saturdays, Sundays, and weekdays when the Commission’s offices are closed, due either to a State holiday or an unscheduled closure (e.g., an emergency or natural disaster). The Daily Calendar will include a list of State holidays for the current fiscal year and a list for the following fiscal year as soon as such list is available.

3.4 Deviation

“Deviation” means the furnishing by a utility of any service at rates or under conditions other than the rates and conditions contained in its tariffs then in effect.

3.5 Disposition

“Disposition” refers to the grant or rejection (including modification) of the relief requested in an advice letter. The disposition of an advice letter will be by resolution adopted by the Commission, except for (1) an advice letter rejected without prejudice by the reviewing Industry Division pursuant to General Rule 5.3, or (2) an advice letter that is subject to disposition by Industry Division pursuant to General Rule 7.6.1.

3.6 Effective Pending Disposition

“Effective pending disposition” refers to a procedure under General Rules 7.5.3 and 8.2.3 and the appropriate Industry Rules whereby the utility submitting an advice letter implements the actions or tariff changes set forth in the advice letter prior to its disposition pursuant to this General Order. A utility submitting an advice letter under this procedure shall prominently designate the advice letter as “effective pending disposition.”

3.7 Formal; Informal

“Formal” refers to a proceeding initiated by an application, complaint, petition, order instituting investigation or rulemaking, or order to show cause. “Informal” refers to an advice letter or draft resolution submitted for disposition outside a formal proceeding at the Commission. See also General Rules 5.1 and 5.2. In the case of applications for rehearing and petitions for modification of resolutions originally recommended by the Legal Division or Administrative Law Judge Division, “Industry Division” is deemed to include those Divisions.

3.8 Industry Division

“Industry Division” means the Energy, Telecommunications, Water Division or, when acting in an advisory capacity, the Safety and Enforcement Division or the Consumer Protection and Enforcement Division, or their successors.

3.9 Information-only Submittal

“Information-only Submittal” means an informal report, required by statute or Commission order, that is submitted by a utility to the Commission, but that is not submitted in connection with a request for Commission approval, authorization, or other relief. “Information-only Submittal” includes both periodic and occasional reports.

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3.10 Person

“Person” refers both to natural and fictitious persons including, without limitation, companies, corporations, partnerships, associations, and sole proprietorships.

3.11 Protest

“Protest” means a document that objects in whole or in part to the relief requested in an advice letter. The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division.

3.12 Reply

“Reply” means a document containing a utility’s reaction to any protest or response to the utility’s advice letter.

3.13 Response

“Response” means a document, submitted by a third party and served on the utility submitting the advice letter, that unconditionally supports the relief requested in the advice letter and that may provide useful information regarding the advice letter.

3.14 Service

“Service,” when referring to sending a document, means mailing or delivering the document, or transmitting it by facsimile transmission, modem, or other electronic means, as described in the Commission’s Rules of Practice and Procedure.

Except when referring to sending a document, “service” means the service performed for, or product delivered to, the public or portion of the public, by a utility.

3.15 Tariffs

“Tariffs” refer collectively to the sheets that a utility must file, maintain, and publish as directed by the Commission, and that set forth the terms and conditions of the utility’s services to its customers; “tariffs” may also refer to the individual rates, tolls, rentals, charges, classifications, special conditions, and rules of a utility.

3.16 Utility

“Utility” means a public utility that is a gas, electrical, telephone, water, sewer system, pipeline, or heat corporation, as defined in the California Public Utilities Code. The Industry Rules may define “utility” more narrowly.

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4. Notice, Access, Submittal and Service Procedures Generally

4.1 Commission Policies

The Commission intends that all interested persons have the opportunity, through timely and efficient means, (1) to inspect a utility's tariffs, (2) to receive notice of advice letter and information-only submittals, (3) to have access to public records regarding such documents, and (4) to find information on the status of any particular advice letter, including associated supplements, protests, replies, or appeals, and the disposition of the advice letter.

4.2 Customer Notices

Unless no notice or a shorter notice period is authorized by statute or Industry Rule or other Commission order, a utility shall give affected customers at least 30 days' notice before the effective date of an advice letter requesting higher rates or charges, or more restrictive terms or conditions, than those currently in effect. This notice requirement may be satisfied by one or a combination of the following: bill inserts; notices printed on bills; separate notices sent by first-class mail; or electronic mail (e-mail) when a customer has affirmatively consented to receive notice in this manner. Notice by first-class mail is complete when the document is deposited in the mail, and notice by e-mail is complete upon successful transmission. Where authorized by the appropriate Industry Rules, the notice requirement may also be satisfied by notices printed in a newspaper of general circulation.

4.3 Service Lists

Each utility shall maintain at least one advice letter service list, which shall include the postal and e-mail addresses, as appropriate, of all persons on the list. To the extent practical, the utility shall maintain separate lists for different types of advice letters (for example, differentiating between water utility districts, customer classes, or particular services), and shall identify the separate lists at the utility's Internet site, so that persons may request and receive only those advice letters of interest. The utility shall include on the service list any person who requests such inclusion, and may periodically confirm the desire of any currently listed person to remain on the list. On or before the date when the utility submits an advice letter, it shall serve the advice letter without charge on all persons listed for that type of advice letter.

4.4 Service by Internet

For purposes of these rules, any person may accept service by Internet. A person indicates acceptance of such service by providing an e-mail address along with a postal address to the utility, Industry Division, or third party serving a document on the person. Notwithstanding such acceptance, the utility, Industry Division, or third party shall make alternative service (including service by first-class mail, personal delivery, or facsimile transmission) immediately whenever the serving party receives notification that service by Internet is unsuccessful.

A utility shall serve its advice letters and related documents by Internet on any person on its advice letter service list who provides an e-mail address. Any such person shall serve that person's advice letter protest and related documents by Internet on the utility submitting the advice letter.

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4.5 Format

Rule 1.5 of the Commission's Rules of Practice and Procedure governs the format of advice letter documents, except that the format of tariffs shall be as prescribed in these General Rules and the appropriate Industry Rules.

4.6 Cover Sheet

A utility submitting an advice letter shall include with its advice letter a cover sheet, which shall state the date when the utility served the advice letter and submitted it to the reviewing Industry Division. The cover sheet shall also be served with the advice letter. The cover sheet shall state that a protest or response to the advice letter must be submitted to the reviewing Industry Division within 20 days of the date of the advice letter's submittal and served on the same day on the utility. Except as modified by the Industry Division, the cover sheet shall summarize the contents of the advice letter, as follows:

- (1) indicate requested effective date;
- (2) indicate service affected by the advice letter;
- (3) briefly describe change to existing service (where applicable) or other change proposed by the advice letter;
- (4) indicate percent impact of proposed change on current rates or charges for affected service (where applicable);
- (5) cite Commission orders (by decision or resolution number and ordering paragraph) and Public Utilities Code or other statutory provisions (by section) related to the substance of the advice letter, and identify as compliance submittal (where applicable);
- (6) refer to the utility's other pending advice letters that relate to the same tariffs or are otherwise affected by the proposed change;
- (7) if the advice letter replaces a withdrawn or rejected advice letter, identify the prior advice letter and the differences between it and the new advice letter;
- (8) indicate whether the utility believes disposition of the advice letter by Commission resolution is necessary or appropriate;
- (9) show contact person, telephone number, and e-mail address for additional information regarding the advice letter; and
- (10) show postal address and e-mail address of the utility and of the reviewing Industry Division for protests regarding the advice letter.

If an advice letter does not include a complete cover sheet, as described above, the reviewing Industry Division may reject the advice letter without prejudice or extend the protest period unless and until the utility submits and serves the information that is missing or incomplete.

4.7 Form and Content

A utility shall:

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- (1) number the advice letter sequentially, beginning with No. 1 for the first advice letter filed by the utility for each type of service rendered, followed by a letter designation for the type of service if the Industry Division so requires;
- (2) attach the tariff sheets (new or revised) showing the changes that would be made by the advice letter, and list the numbers and titles of the new tariff sheets (if any) and the numbers of tariff sheets proposed to be canceled (if any). If the advice letter proposes to change tariff sheets currently in effect, the proposed changes shall be shown by providing either (i) a redlined version of the tariff sheets, or (ii) the tariff sheets as currently in effect and as proposed with the changes indicated by appropriate symbols along the right-hand margin, using the symbols set forth in the utility's preliminary statement. If the reviewing Industry Division will assign sheet numbers, so indicate. A tariff sheet number may not be used more than once;
- (3) state whether any deviations would be created, service withdrawn from any present customer, or more or less restrictive conditions imposed;
- (4) if establishing a new non-competitive service, describe the new service and state its impacts (if any) on rates and service to customers not receiving the new non-competitive service, its impacts (if any) on customer privacy and competitive markets, any educational efforts the utility plans in connection with the new service, and any transactions with the utility's affiliates in the provision of the new service;
- (5) if seeking approval of a contract or other deviation from tariffed service, attach a copy;
- (6) attach analysis and workpapers used to justify the relief sought in the advice letter, or if the analysis and workpapers are voluminous, provide them within two business days upon request;
- (7) cite the statute and/or Commission order establishing the notice requirements applicable to the advice letter, and describe how those requirements were satisfied; and
- (8) attach the service list to the original advice letter submitted to the reviewing Industry Division, or if the list is identical to a list used previously by the utility, cite the number and date of the advice letter or application that is the source of the list.

In addition, if an advice letter requests a change to a Commission resolution addressing a prior advice letter of the utility, the new advice letter shall specify the resolution to which a change is requested, and shall set forth the following information by way of notice:

- (1) The advice letter is subject to Public Utilities Code Section 1708, which states in pertinent part that the Commission may, "upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it."
- (2) A person wishing to request an evidentiary hearing must submit and serve a timely protest to the advice letter. The protestant must expressly request and explain the need for an evidentiary hearing. The explanation must identify material disputed facts and explain why a hearing must be held.
- (3) Any right a person may otherwise have to an evidentiary hearing will be waived if that person does not follow the above procedure for requesting one.

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Each Industry Division may modify the required contents as appropriate for the needs of that division and may also promulgate recommended or sample cover sheet formats.

If an advice letter omits any applicable contents, as described above, the reviewing Industry Division may reject the advice letter without prejudice or extend the protest period unless and until the utility submits and serves the complete advice letter.

5. Use of Advice Letters

5.1 Matters Appropriate to Advice Letters

The advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions. The advice letter process does not provide for an evidentiary hearing; a matter that requires an evidentiary hearing may be considered only in a formal proceeding.

The primary use of the advice letter process is to review a utility's request to change its tariffs in a manner previously authorized by statute or Commission order, to conform the tariffs to the requirements of a statute or Commission order, or to get Commission authorization to deviate from its tariffs. A utility may also request relief by means of an advice letter where the utility:

- (1) has been authorized or required, by statute, by this General Order, or by other Commission order, to seek the requested relief by means of an advice letter; or
- (2) requests modification of a Commission resolution addressing a prior advice letter of the utility. See General Rule 7.2. To request an extension of time to comply with such resolution, see General Rule 8.3.

A utility may seek a rate increase by means of an advice letter only if use of an advice letter for this purpose is authorized by statute or Commission order.

5.2 Matters Appropriate to Formal Proceedings

A utility must file an application, application for rehearing, or petition for modification, as appropriate, in the following circumstances:

- (1) The utility requests modification of a decision issued in a formal proceeding or otherwise seeks relief that the Commission can grant only after holding an evidentiary hearing, or by decision rendered in a formal proceeding;
- (2) The utility seeks Commission approval of a proposed action that the utility has not been authorized, by statute, by this General Order, or by other Commission order, to seek by advice letter; or
- (3) The utility seeks to challenge a Commission resolution addressing an advice letter submitted by the utility.

Except as provided in General Rule 5.1, a utility must file an application to seek approval of a rate increase; a change to its tariffs; or an alteration of any classification, contract, practice, or rule as to result in a new rate.

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5.3 Withdrawal; Rejection Without Prejudice

Before disposition of an advice letter, but no later than the date of issuance, for public review and comment, of a draft resolution (if any) that would grant or reject the advice letter, a utility may withdraw its advice letter without prejudice, except that an advice letter that is effective pending disposition may not be withdrawn on or after the effective date. The withdrawal shall bear the same identifying number as the advice letter and shall be submitted in the same manner and served on the same persons as the advice letter.

Whenever the reviewing Industry Division determines that the relief requested or the issues raised by an advice letter require an evidentiary hearing, or otherwise require review in a formal proceeding, the Industry Division will reject the advice letter without prejudice.

The utility may resubmit, as an application or other appropriate formal request for relief, the request contained in an advice letter that it has withdrawn, pursuant to this General Rule, or that is rejected without prejudice on the grounds that the advice letter must be heard or reviewed in a formal proceeding. When an advice letter has been withdrawn voluntarily by the utility, the utility may resubmit the matter as an advice letter so long as the relief requested or issues raised are appropriate to an advice letter.

The reviewing Industry Division will also reject without prejudice an advice letter that violates applicable Industry Rules in the following instances:

- (1) The utility has improperly designated the advice letter as effective pending disposition; or
- (2) The utility has improperly designated the advice letter as subject to Industry Division disposition.

In these instances, the utility may submit a new advice letter with corrections as specified by the Industry Division. However, implementation of an advice letter designated as effective pending disposition, if the advice letter is rejected without prejudice, shall cease immediately upon such rejection, and may not resume unless and until such implementation is duly approved pursuant to this General Order.

6. Process for Handling Information-only Submittals

6.1 Submittals, Access, Service

Information-only submittals shall be submitted to the appropriate Industry Division, and as further provided in the Industry Rules. A table of periodic information-only submittals will be maintained at the Commission's Internet site.

Information-only submittals are public records, and are open to public inspection, except as provided by statute or Commission order. Any provision the Commission may make, now or in the future, for electronic notice of, and access to, the Commission's public records shall apply to information-only submittals. Information-only submittals need not be served, except as otherwise required by statute or Commission order.

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6.2 Review

Since information-only submittals do not seek relief, they are not subject to protest, as provided for applications and advice letters. The reviewing Industry Division may notify the utility of any omission or other defect in a submittal, and the utility shall remedy such defect within a reasonable time. A utility that fails to remedy defects or fails to submit a required report on time or at all shall be subject to fines and other sanctions.

7. Advice Letter Review and Disposition

7.1 Submitting Advice Letters and Related Documents

Advice letters and related documents (e.g., protests, responses, replies, and requests for review) shall be submitted to the reviewing Industry Division. An Industry Division may accept the submittal of advice letters and related documents by electronic mail when the Division determines that it has the capacity to receive and process advice letters and related documents in this fashion. The Industry Division will report advice letters and related documents, and the date of their receipt, in the Daily Calendar.

The date of submittal of an advice letter or related document shall be the date of receipt by the reviewing Industry Division and shall be used for purposes of calculating the 20-day protest period, the 30-day initial review period, the period of suspension under General Rule 7.5.2, or the last day for any submittal or other deadline that may be computed from the date of submittal under these rules. The reviewing Industry Division may reject without prejudice an advice letter due to defective service or omitted contents. Notwithstanding the Industry Division's acceptance of an advice letter for submittal, a defect or omission that becomes apparent during review of the advice letter may require rejection of the advice letter without prejudice if the utility fails, upon request, to promptly cure the defect or omission.

Advice letters, protests, responses, and replies are public records, and are open to public inspection, except as provided under statute or Commission order. Any provision the Commission may make, now or in the future, for electronic notice of, and access to, the Commission's public records shall apply to such documents.

7.2 Serving Advice Letters and Related Documents

On or before the date an advice letter is submitted, and unless otherwise directed by Commission order, the utility shall serve the advice letter and cover sheet (1) on the utility's advice letter service list, and (2) on any other third parties as specified by statute or other Commission order. Such service shall be by Internet to the extent required by General Rule 4.4. In addition, the utility shall make paper service of the advice letter on the Division of Ratepayer Advocates by first-class mail or personal delivery. The requirement to serve the Division of Ratepayer Advocates does not apply to a utility that is a sewer system corporation or a Class B, C, or D water corporation. In addition, the Division of Ratepayer Advocates may waive or modify this service requirement to better accommodate small utilities or alternative service methods.

After submitting an advice letter, and pending its disposition, the utility shall promptly provide a copy of the advice letter to anyone so requesting. Such provision shall be without charge to anyone who currently receives service from the utility, or to anyone receiving the advice letter by Internet.

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The following additional requirements apply to service of any advice letter that requests a change to a Commission resolution. The utility submitting such an advice letter shall serve it on anyone who submitted a protest or response to the prior advice letter addressed in the resolution, any third party whose name and interest in the relief sought appeared on the face of that prior advice letter (as where the advice letter sought approval of a contract or deviation for the benefit of such third party), and any other persons who had been served with the resolution.

7.3 Effective Date

A utility submitting an advice letter shall include the requested effective date, as further provided in the Industry Rules.

7.3.1 Effective Date Provided by Statute or by Commission Order Other Than This General Order

If the Commission, by Industry Rule or otherwise, has ordered an advice letter to go into effect on a date different from that otherwise provided by these General Rules, the advice letter shall go into effect on the date ordered. If a statute, Industry Rule, or other Commission order specifically authorizes an advice letter to go into effect on a date different from that otherwise provided by these General Rules, the advice letter shall go into effect on any date (as designated by the utility in the advice letter) that is consistent with the authorization.

7.3.2 Later Effective Date Requested by Utility

Unless the Commission has required an advice letter to go into effect on a date different from that otherwise provided by this General Order, a utility may request an effective date later than that otherwise provided by this General Order, and the advice letter shall go into effect on the date requested by the utility.

7.3.3 Effective Pending Disposition

Unless an earlier effective date is authorized, or a later effective date required, under the appropriate Industry Rules, an advice letter properly designated as effective pending disposition may be made effective on the date of submittal, or as provided under General Rule 7.3.2 or 9.2.3. A utility whose advice letter would qualify under the appropriate Industry Rules to be effective pending disposition may request instead that the advice letter be effective only upon regulatory approval under this General Order.

If an advice letter is effective pending disposition, all service rendered pursuant to the advice letter before disposition will be subject to a Commission order requiring refunds or such other or additional adjustments as the Commission may require.

7.3.4 Effective Date of Advice Letter Submitted for Industry Division Disposition

Except as provided in General Rules 7.3.1 to 7.3.3, if a utility has properly submitted an advice letter for Industry Division disposition, the advice letter will become effective as follows:

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- (1) If the advice letter has not been protested and the reviewing Industry Division has not suspended the advice letter by the end of the initial review period (see General Rule 7.5.2), the advice letter will become effective 30 days after the date of submittal.
- (2) If the advice letter is protested or suspended, the advice letter will become effective upon written approval by the reviewing Industry Division or (if an issue requires determination by the Commission) upon adoption by the Commission of a resolution approving the advice letter. (See General Rule 7.5.2)

If an advice letter is improperly submitted for Industry Division disposition, the advice letter will be rejected without prejudice, as provided in General Rule 5.3.

**7.3.5 Effective Date of Advice Letter Submitted for Disposition
by Resolution**

Except as provided in General Rules 7.3.1 and 7.3.2, if a utility has submitted an advice letter for disposition by resolution, the advice letter will become effective when the Commission adopts a resolution approving the advice letter, unless the advice letter may properly be approved by the reviewing Industry Division, in which case the advice letter will become effective upon written approval by that Industry Division. An advice letter submitted for disposition by resolution will not become effective merely by virtue of the expiration of the initial review period or any continuation of the initial or later review period.

7.4 Protests and Responses

7.4.1 Submittal of Protest

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter. Within 20 days of the date of submittal of the advice letter, the protest or response shall be submitted to the reviewing Industry Division and served on the same day on the utility. After submitting a protest, and pending disposition of the advice letter, the protestant shall promptly provide a copy of the protest to anyone so requesting.

If the protestant believes that the Commission should hold an evidentiary hearing, the protest must expressly request and explain the need for an evidentiary hearing. The explanation must identify material disputed facts and say why a hearing must be held. Any right a protestant may otherwise have to an evidentiary hearing will be waived if the protestant does not follow this procedure for requesting one.

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7.4.2 Grounds for Protest

An advice letter may be protested on one or more of the following grounds:

- (1) The utility did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material errors or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- (5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory, provided that such a protest may not be made where it would require relitigating a prior order of the Commission.

As illustrated in the following examples, a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility.

Example 1. Where the Commission has approved a rate change, an advice letter submitting tariff sheets in compliance with the Commission order approving the rate change is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory.

Example 2. Where the Commission does not regulate the rates of a specific type of utility, an advice letter submitting a rate change by a utility of the specified type is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory.

Example 3. Where the Commission has established a rate band within which a utility is free to set rates for a specific type of service, an advice letter submitting a rate change within the band for a service of the specified type is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory.

In all of the above examples, the advice letters may still be protested on other grounds. For example, if the rate change in Example 3 falls outside the rate band or applies to a service other than of the specified type, the advice letter would violate the Commission order approving the rate change and is subject to protest on that ground.

7.4.3 Replies

The utility submitting an advice letter shall reply to each protest and may reply to any response. Any such reply shall be submitted to the reviewing Industry Division within five business days after the end of the protest period, and shall be served on the same day on each person who submitted a protest or response to the advice letter. The protestant may not reply to the utility's reply.

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7.4.4 Late-Submitted Protest or Response

The reviewing Industry Division may consider a late-submitted protest or response. If an Industry Division considers a late-submitted protest or response, it will so notify the utility, and the utility shall have five business days from the date of issuance of the notice within which to reply to the late-submitted protest or response.

7.5 Review

7.5.1 Additional Information; Supplements

An Industry Division, to assist its review of an advice letter, may request additional information from the utility. The utility shall respond to the request within five business days unless the Industry Division agrees to a later response, and the Industry Division may reject the advice letter if the utility does not respond promptly and fully. If the Industry Division, after considering the additional information, determines that material factual issues remain, the Industry Division will reject the advice letter without prejudice.

A utility may make minor revisions or corrections to its advice letter at any time before the requested effective date by submitting a substitute sheet with the reviewing Industry Division. Changes that generally may be made by substitute sheet include: a correction of a typographical or other insubstantial error; a language clarification; or a later effective date.

The utility shall submit a supplement or withdraw the advice letter without prejudice in order to make major revisions or corrections. A substitute sheet or supplement shall be submitted and served in the same manner and on the same persons as the advice letter, plus any other persons who have filed a protest or response. A supplement shall bear the same identifying number as the advice letter but shall have a letter suffix ("A" for the first supplement, "B" for the second supplement, etc.).

The submittal of a supplement, or of additional information at the request of the reviewing Industry Division, does not automatically continue or reopen the protest period or delay the effective date of the advice letter. The reviewing Industry Division, on its own motion or at the request of any person, may issue a notice continuing or reopening the protest period. Any new protest shall be limited to the substance of the supplement or additional information.

7.5.2 Initial Review Period; Suspension; Status Report

The initial review period for an advice letter is the 30 days immediately following the date of submittal. No later than the last day of the initial review period, the reviewing Industry Division will notify the utility and any protestants if disposition of the advice letter will not occur within the initial review period. The Industry Division may notify the utility, and any protestant who has provided an e-mail address, by Internet. For any advice letter that may not be deemed approved, suspension is automatic if disposition of the advice letter has not occurred by the end of the initial review period. The reviewing Industry Division, however, will give notice of this suspension.

The Industry Division's notification will suspend the advice letter's effectiveness and will state the reason for the suspension and its expected duration, which will not exceed 120 days from the end of the initial review period unless the utility agrees in writing to a longer suspension period. For any advice letter so suspended, the reviewing Industry Division will proceed

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promptly with the disposition of the advice letter under General Rule 7.6.1 or 7.6.2, as appropriate. If the reviewing Industry Division determines that a suspended advice letter requires disposition by the Commission, and the Commission's deliberation on the resolution prepared by the Industry Division continues beyond the expiration of the suspension period, the suspension is automatically continued for a further period, and the Industry Division will so notify the utility and protestants, as above. The further period of suspension will run until the Commission acts on the resolution, but will not exceed 180 days. If the further period ends before the Commission rejects or otherwise acts on the advice letter, the advice letter (if subject to Public Utilities Code Section 455) becomes effective by operation of law on the day after the further period ends.

The above procedures regarding initial review and suspension shall also apply to advice letters effective pending disposition, except that the effectiveness of such advice letters is not suspended by extension of Industry Division or Commission review beyond the initial review period.

Each reviewing Industry Division will publish and keep current an advice letter status report at the Commission's Internet site. The report will include the following information for each advice letter for which review is continuing beyond the initial review period: identification of the advice letter by utility and advice letter number; date of suspension or extension; and reason(s) for suspension or extension. The report will be updated, as needed, to reflect new suspensions or extensions and any change of status of an advice letter, including disposition or withdrawal of the advice letter.

7.5.3 Advice Letters Effective Pending Disposition

Where General Rules 7.3.3, 9.2.3, or the Industry Rules authorize a utility to designate an advice letter as effective pending disposition, the Industry Rules may establish additional procedures for the utility to submit revisions or corrections prior to disposition when the appropriate Industry Division, during its review of such an advice letter, discovers a defect in the advice letter or the tariff changes set forth in the advice letter, provided that the defect is not such as to require rejection of the advice letter. Whenever a utility fails to submit a timely or satisfactory revision after notice by the Industry Division, as prescribed in the procedures, the Commission may impose a penalty and/or take such other actions as may be appropriate to protect consumers and ensure compliance with law.

A utility that has implemented the actions or tariff changes set forth in an advice letter effective pending disposition shall immediately stop such implementation, and shall commence such remedial action as may be appropriate (including but not limited to the submission of an advice letter setting forth a remedial plan), if the advice letter is rejected pursuant to General Rule 5.3, 7.6.1, or 7.6.2.

7.6 Disposition of Advice Letters

7.6.1 Industry Division Disposition of Advice Letters

A utility shall designate in the advice letter whether the utility believes the advice letter is subject to Industry Division disposition. The utility's designation is not binding on the reviewing Industry Division.

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The Commission intends by this rule to make advice letters subject to Industry Division disposition in all instances where the Commission has lawfully assigned this task to the Industry Division.

An advice letter is subject to disposition by the reviewing Industry Division whenever such disposition would be a “ministerial” act, as that term is used regarding advice letter review and disposition. (See Decision 02-02-049.) Industry Division disposition is appropriate where statutes or Commission orders have required the action proposed in the advice letter, or have authorized the action with sufficient specificity, that the Industry Division need only determine as a technical matter whether the proposed action is within the scope of what has already been authorized by statutes or Commission orders. In addition, the Industry Division will (1) reject any advice letter where the advice letter or workpapers are clearly erroneous, including without limitation where there are clear inconsistencies with statute or Commission order, and (2) reject without prejudice an advice letter whose disposition would require an evidentiary hearing or otherwise require review in a formal proceeding.

An advice letter will be subject to Industry Division disposition even though its subject matter is technically complex, so long as a technically qualified person could determine objectively whether the proposed action has been authorized by the statutes or Commission orders cited in the advice letter. Whenever such determination requires more than ministerial action, the disposition of the advice letter on the merits will be by Commission resolution, as provided in General Rule 7.6.2.

Notwithstanding a timely protest, the reviewing Industry Division may approve an advice letter that is subject to disposition under this rule and is otherwise proper, if the protest either (1) is not made on proper grounds as set forth in General Rule 7.4.2, (2) may be rejected on a technical basis as discussed in this rule, or (3) is clearly erroneous.

The Industry Division will review each submitted advice letter, together with any timely protests, responses, and replies. If the Industry Division, in light of such review, concludes that the advice letter is subject to disposition under this rule (including a deemed approval pursuant to the next paragraph), the Industry Division will report its disposition at the Commission’s Internet site. If the advice letter is approved, the Industry Division will either (1) notify the utility by e-mail on the Internet, or (2) return to the utility a complete copy of the advice letter with the effective date stamped on each tariff sheet.

An advice letter that is subject to Public Utilities Code Section 455 or that implements a rate increase previously approved by the Commission is deemed approved if, at the end of the initial review period, the Industry Division has not suspended the advice letter (as provided in General Rule 7.5.2). In all cases where there is Industry Division disposition of an advice letter (including “deemed approval”), the Industry Division will issue a written disposition. If the Industry Division rejects an advice letter or grants a protested advice letter, the Industry Division’s disposition will state the basis for rejecting the advice letter or the protest. The Industry Division will serve the disposition on the utility and on any person submitting a protest or response to the advice letter. Service on the utility, and on any person who is entitled to receive the disposition and has provided an e-mail address, may be by Internet.

If the reviewing Industry Division has suspended or extended the review of an advice letter that the utility properly submitted for disposition under this rule, the Industry Division, prior to the expiration of the review period, will either (1) issue its disposition, or (2) prepare for the Commission’s consideration and place on a Commission meeting agenda a resolution containing

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the Industry Division's analysis and recommendation regarding the advice letter. The Commission may adopt the resolution or modify it in whole or in part.

7.6.2 Disposition by Resolution

Except for those circumstances in which, as provided in General Rules 5.3, 7.5.1, or 7.6.1, the reviewing Industry Division may approve or reject an advice letter, the reviewing Industry Division will prepare and place on the Commission's meeting agenda a resolution approving, rejecting, or modifying any advice letter submitted to the Industry Division. The resolution will contain the Industry Division's recommended disposition and analysis supporting such disposition. The resolution will also contain an attachment listing all persons served with the resolution, including the utility submitting the advice letter, persons protesting or responding to the advice letter, and any third party whose name and interest in the relief sought appear on the face of the advice letter.

The Commission may adopt the resolution or modify it in whole or in part. After the Commission has acted on a resolution, the resolution will be served on the utility, on any person submitting a protest to the advice letter, and on any other party to the resolution. (See Rule 14.5 of the Rules of Practice and Procedure.) The disposition of the advice letter will be reported at the Commission's Internet site. If the advice letter is approved, the Industry Division will either (1) notify the utility by e-mail on the Internet, or (2) return to the utility a complete copy of the advice letter with the effective date stamped on each tariff sheet.

7.6.3 Review of Industry Division Disposition

The utility or a person submitting a protest, or any third party whose name and interest in the relief sought appear on the face of the advice letter, may request Commission review of an Industry Division disposition. In exceptional circumstances, a person who has an interest in the advice letter but who did not submit a protest may request Commission review. The request must explain the circumstances that entitle the person to make the request (e.g., the person was unable to submit a protest or submitted a response supporting the advice letter). The request for Commission review shall be submitted to the reviewing Industry Division within 10 days after the issuance of the disposition, shall be served on the utility, all persons submitting protests or responses, and any third party whose name and interest in the relief sought appear on the face of the advice letter, and shall set forth specifically the grounds on which the requester considers the disposition to be unlawful or erroneous. Upon submittal of a timely request for Commission review, the Industry Division will prepare and place on the Commission's meeting agenda a proposed resolution, and will serve it on the requester and all others on whom the request was served. Pending Commission action on the proposed resolution, the advice letter will take effect if it was approved under the Industry Division disposition.

8. Application for Rehearing and Petition for Modification of Resolution; Request for Extension

8.1 Application for Rehearing of Resolution

The utility submitting an advice letter, any person submitting a protest to the advice letter, and any person who commented on a draft or alternate resolution under Rule 14.5 of the Rules of Practice and Procedure may apply for rehearing of a resolution pursuant to Sections 1731 to 1736 of the Public Utilities Code and Rules 16.1 to 16.6 of the Rules of Practice and

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Procedure. The application for rehearing shall set forth specifically the grounds on which the applicant considers the resolution to be unlawful or erroneous.

The application for rehearing shall be filed with the Commission's Docket Office, which will assign a docket number to the application. On the same day that it is filed, the application for rehearing shall be served on the reviewing Industry Division and on the same persons who are required to be served with the draft resolution pursuant to the instructions accompanying the draft resolution.

8.2 Petition for Modification

Any person may petition for modification of a resolution and respond to such petition to the same extent and under the same procedures as provided, with respect to Commission decisions, by Rule 16.4 of the Commission's Rules of Practice and Procedure, except that such a petition or response shall be submitted and served on the appropriate Industry Division, and on the same persons who are required to be served pursuant to the instructions accompanying the draft resolution. A certificate of service must accompany the petition, stating (1) the title of the petition with reference to the resolution number and caption of the resolution that is the subject of the petition, (2) the place, date, and manner of service, and (3) the name of the person making the service. The Industry Division may direct the petitioner to circulate the petition for modification to additional parties, if appropriate. The Industry Division should ensure notice of the petition for modification appears on the Daily Calendar. Nothing in this section limits an Industry Divisions ability to place a draft resolution modifying a prior resolution on the Commission's agenda at any time.

8.3 Request for Extension

For an extension of time to comply with a Commission resolution addressing an advice letter, the utility that submitted the advice letter shall send a written request to the Executive Director, with copies of the request sent concurrently to the appropriate Industry Division and to all persons on whom the resolution was served. The request, or facsimile of the request, must be received by the Executive Director at least three business days before the date of compliance set in the resolution. If the extension is granted, the utility shall promptly inform all persons on whom the resolution was served of the new date for compliance.

9. Tariffs

9.1 Submittal, Making Accessible, Revising

At all times, and as further provided in the Industry Rules, each utility shall comply with the following requirements regarding its tariffs then in effect: (1) submit them to the appropriate Industry Division; (2) compile, publish, and make them accessible for public copying and inspection in accordance with General Rules 9.1.1 to 9.1.3; and (3) promptly submit such revisions as are necessary to conform the utility's tariffs to statute or Commission order. These requirements shall apply except where and to the extent that, by statute or Commission order, compliance is expressly excused for the specific utility or type of utility, or for specific services offered by the utility or type of utility. If a customer or member of the public requests a map of a utility's service area that is not on the utility's web site, the utility may charge the actual cost of producing the map; and the utility shall estimate the cost when the order for the map is taken.

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9.1.1. Publishing Tariffs

These tariff publication requirements apply to any utility that serves California customers under tariffs. A utility shall compile and publish the tariffs under which it provides services to California customers. The purpose of compiling and publishing tariffs is to enable members of the public to inspect and get copies of tariffs (including both currently effective and no longer effective tariffs) that may be of interest to them. A utility may not require anyone wanting to inspect or copy a tariff to disclose the nature of that person's interest in the tariff.

9.1.2 Internet Publication

The Commission strongly encourages all utilities, and requires certain utilities as described below, to publish and keep up-to-date their respective tariffs, as currently in effect, at sites on the Internet freely accessible to the public.

A utility that serves California customers under tariffs, and whose gross intrastate revenues, as defined in Public Utilities Code Section 435(c) and reported to the Commission for purposes of the Utilities Reimbursement Account, exceed \$10 million, shall publish, and shall thereafter keep up-to-date, its currently effective California tariffs at a site on the Internet. The Internet site shall be accessible, and the tariffs shall be downloadable, at no charge to the public. At all times, the utility shall identify at the site any tariffs that would change as the result of Commission approval of modifications the utility has proposed in a pending application or advice letter. The utility shall update the site within five business days of the effective date of any such approval. The utility shall also provide instructions at the site for getting copies of such pending application or advice letter, and of no longer effective tariffs. If it is difficult to publish at the site the maps or forms in the utility's tariffs, the utility shall provide a means of downloading the maps or forms, or shall provide instructions for getting copies in printed format.

A utility whose gross intrastate revenues, as last reported to the Commission, exceed \$10 million, shall comply with this Internet publication requirement no later than January 1, 2002. Any other utility whose gross intrastate revenues, as reported in the utility's annual report to the Commission after January 1, 2002, exceed \$10 million, shall comply with this Internet publication requirement no later than 180 days after the date of the annual report.

9.1.3 Other Publication

A utility that serves California customers under tariffs shall provide a telephone number at which a caller may (1) ask questions regarding the utility's tariffs, (2) order copies of the tariffs, and (3) find out times and places at which the caller may inspect or copy the tariffs. If the utility does not publish its tariffs on the Internet, it shall provide free copies to a current customer, and may charge not more than 20 cents per page to any other requester. The utility shall include this telephone number with any bill for a tariffed service. The telephone number shall be toll-free to customers within the utility's service area.

A utility that serves California customers under tariffs shall make its tariffs (including its no longer effective tariffs) available for public inspection or copying at reasonable times and place(s) within its California service area. The reasonableness of the times and place(s) at which tariffs are available will depend on whether the utility publishes its tariffs on the Internet.

9.2 Serving Under Tariffs

9.2.1 Consistency With Tariffs

Except for nontariffed or detariffed service, or a deviation (whether by contract or otherwise), authorized by statute or Commission order, a utility shall serve its California customers only at rates and under conditions contained in its tariffs then in effect. Any ambiguity

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in a tariff provision shall be construed in the way most favorable to the customer, and any representation made by a utility, in advertising or otherwise, with respect to a tariffed service shall be consistent with the terms and conditions of the applicable tariff(s).

9.2.2 Service Options and Alternatives

If a utility provides optional features in conjunction with a particular service, the utility's tariffs shall identify the optional features as such, and shall describe the means by which a customer elects or rejects such features. If a utility provides alternative means of obtaining a particular service, or its functional equivalent, or a choice between different rate plans, the utility's tariffs shall disclose the alternatives available to a customer, and shall describe how the customer selects an alternative.

9.2.3 Emergency Service; Service to Government Agencies

Under emergency conditions, such as war, terrorist attack, and natural disasters, a utility that is a telephone corporation as defined in the Public Utilities Code may provide service to a government agency or to the public for free, or at reduced rates and charges, or under terms and conditions otherwise deviating from its tariffs then in effect. The utility may begin such service without prior Commission approval, but the utility shall promptly submit an advice letter to the Telecommunications Division to notify the Commission of the utility's provision of emergency service and of the rates, charges, terms, and conditions under which the service is provided. The advice letter may be effective pending disposition, and shall be subject to disposition under General Rule 7.6.1. The Commission may determine, as appropriate, the reasonableness of such service.

At all times, a utility other than a telephone corporation may provide service (other than resale service) to a government agency for free, or at reduced rates and charges, or under terms and conditions otherwise deviating from its tariffs then in effect. The utility may begin such service without prior Commission approval, but the utility shall promptly submit an advice letter to the appropriate Industry Division to notify the Commission of the utility's provision of such service and of the rates, charges, terms and conditions under which the service is provided. Although the advice letter may be effective pending disposition under General Rule 7.5.3, the Commission may determine, in an appropriate proceeding, the reasonableness of such service.

For purposes of this General Rule 9.2.3, "government agency" means the United States and its departments, Indian tribes recognized by the United States or the State of California, the State of California and its political subdivisions and municipal corporations, including the departments thereof, and public fairs and celebrations.

9.3 Notice to Correct Tariffs

For any tariffs in effect (other than tariffs effective pending disposition), an Industry Division, on the complaint of a utility's customer, the Consumer Protection and Safety Division (or its successor), or the Division of Ratepayer Advocates (or its successor), or on the Industry Division's own motion, may issue a notice directing the utility to correct tariffs that the Industry Division believes may violate a statute or Commission order. Such notice to correct will identify the tariffs believed to be in violation, and will explain the basis for the Industry Division's belief.

Within 10 business days of the issuance of the notice to correct, the utility shall submit to the Industry Division either (1) an advice letter or substitute sheet letter, if appropriate, proposing

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corrective action, or (2) an answer explaining why the utility believes the tariffs in question comply with the specified statute or Commission order.

If the utility responds to the notice to correct by submitting an answer, the Industry Division shall either (1) rescind the notice to correct, or (2) affirm the notice to correct, with an explanation of why the Industry Division disagrees with the utility's answer. If the Industry Division affirms the notice to correct, and the Commission ultimately concludes that the tariffs violate statute or Commission orders as alleged in the notice, service rendered pursuant to the tariffs, at least from the date of issuance of the notice, may be subject to any subsequent Commission order requiring refunds, together with such other or additional adjustments as may be necessary or appropriate, as in the case of service rendered pursuant to an advice letter effective pending disposition.

9.4 Tariff Format and Sheet Numbering

9.4.1 Tariff Sheet Format

Tariff sheets shall be 8 inches wide by 11 inches long and of paper stock not less than 16-lb. bond or of equal durability. Tariff sheets shall be printed, typewritten, or otherwise prepared to provide a durable record. Type size shall be 10 point or larger. Except as provided in the Industry Rules, tariff sheets shall not contain handwritten text, marks, or alterations, and any such handwritten matter shall have no effect. Only one side of a sheet shall be used, and each sheet shall have margins at top and bottom of 1-1/8 inches and a left margin of at least 1-1/8 inches. The Industry Rules may contain additional format requirements, including rules regarding maintenance of tariffs in electronic media, and may provide illustrative exhibits.

Header. On each sheet, the utility shall provide:

- (1) On the left - The name, address, and Commission-assigned identifying "U" number of the utility.
- (2) On the right - Cal. P.U.C. Schedule and Sheet No., with designation as an original or revised sheet (these spaces may be left blank if the appropriate Industry Rules so provide), together with the Cal. P.U.C. numbers of the sheet being cancelled, if any. If a utility has a single rate schedule, omit the schedule number and only show the sheet number.

Footer. On each sheet, the utility shall provide:

- (1) On the left - Advice Letter No. - the number of the advice letter that is requesting approval of the tariff sheet. Decision No. - the Commission's decision number if the sheet is submitted in accordance with a decision; otherwise this space is left blank.
- (2) Center - Name and title of an individual authorized by the utility to legally obligate it.
- (3) On the right - Date Submitted, Effective, and Resolution No. - The date submitted and the effective date shall be completed by the appropriate Industry Division; also, the resolution number approving Tier 3 advice letters shall be followed by blank spaces to be filled in by the appropriate Industry Division.

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When a rate schedule or tariff rule is carried forward from one tariff sheet to another, the bottom and top of the appropriate sheets shall be marked “Continued.”

9.4.2 Tariff Sheet Numbering

Tariff sheet numbering shall start with 1 for the first sheet in a rate schedule, and the following sheets shall be numbered consecutively in the order in which they are to appear in the schedule. Alternatively, a utility may number its tariff sheets, other than a check sheet, to reflect the section number of the tariff as well as the sheet (e.g., sheets in Section 1 would be numbered 1-1, 1-2, and so on). A utility may not mix the two numbering systems in its tariffs. An original sheet shall be designated as such, and a revised sheet shall be designated by the revision number (e.g., “1st Revised Sheet 1, Cancels Original Sheet 1”).

A tariff sheet number may not be used more than once, regardless of whether the tariff sheet to which the number is assigned ever becomes effective. Thus, if a utility modifies a tariff sheet (for example, “1st Revised Sheet 1, Cancels Original Sheet 1”) before disposition of the advice letter by which the utility submitted the tariff sheet, the modified tariff sheet must bear a new number (in the example, “2nd Revised Sheet 1, Cancels Original Sheet 1”) consistent with this General Rule.

A sheet to be inserted between existing effective sheets shall be designated as an original sheet and shall bear the number of the immediately preceding sheet followed by an alpha or numeric suffix. For example, to insert two new sheets between sheets 44 and 45, the first inserted sheet shall be designated as Original Sheet 44A or 44.1, and the second inserted sheet shall be designated as Original Sheet 44B or 44.2. A utility may not use both kinds of suffix in its tariffs.

Similarly, if the need arises to insert new sheets between Original Sheets 44.1 and 44.2, the first new inserted sheet shall be designated as Original Sheet 44.1.1. If a utility uses numeric suffixes (the preferred system), the utility may use zeros to clarify the sequence of the sheets; thus, the numbering in both of the following examples is acceptable:

44.1, 44.2, . . . 44.9, 44.10, 44.11 and so on;
44.01, 44.02, . . . 44.09, 44.10, 44.11 and so on.

When using numeric suffixes, as illustrated in both examples, the next sheet in sequence after tariff sheet 44.1 (or 44.01) is tariff sheet 44.2 (or tariff sheet 44.02), not tariff sheet 44.11.

9.4.3 Transitional Provisions

By advice letter submitted with the appropriate Industry Division within 90 days of the effective date of these General Rules, each utility shall specify whether it elects to (a) continue the sheet numbering system already utilized by the utility (including in its advice letter a complete explanation of the existing sheet numbering system), or (b) conform its sheet numbering system to the requirements of General Rule 9.4.2. A new utility preparing tariffs for the first time shall conform its sheet numbering system to the requirements of General Rule 9.4.2

In the event a utility elects to continue its existing sheet numbering system, the sheet numbering must remain in compliance with the sheet numbering specifications set forth in the last effective version of General Order 96-A. The utility remains subject to notices to correct tariffs under the provisions of General Rule 9.3 in the event its sheet numbering system does not satisfy the specifications of General Order 96-A or does not otherwise conform to a statute or

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Commission order. Additionally, the utility shall maintain its historic tariff record so that it may provide, upon written request and within a reasonable time, the text for any tariff (or portion thereof) no longer in effect.

In the event a utility elects to conform its sheet numbering system to the requirements of General Rule 9.4.2, the appropriate Industry Division will establish a compliance schedule for the utility. The utility shall proceed to renumber its tariff sheets by compliance letter submitted in accordance with the applicable schedule.

9.5 Tariff Contents

Each utility's tariffs shall include the following contents, arranged in the sequence set forth in General Rules 8.5.1 to 8.5.8 below. The Industry Rules may require additional contents, as appropriate.

9.5.1 Title Page

The cover page of each utility's tariffs shall be a title page showing the utility's common business name (and any other fictitious business names), the name and Commission-assigned identifying "U" number shown on the utility's Certificate of Public Convenience and Necessity, mailing address, and types of utility service provided and territory served. If the utility's tariffs are in multiple volumes, each volume shall contain a title page with the above information and a unique identifier for that volume.

9.5.2 Table of Contents

At the beginning of the tariffs, a table of contents shall list all tariff subject headings and page numbers of currently effective tariff sheets in the order in which the tariff sheets appear in the utility's compilation of its tariffs. Unless the tariff is updated continuously and reliably by an automated system, each rate schedule and each volume of tariffs shall include a check sheet, which shall show the currently effective tariff sheets, by page and revision number, within the schedule or volume. The Industry Rules may require additional or alternative methods for listing currently effective tariff sheets.

9.5.3 Preliminary Statement and Explanation of Symbols

The preliminary statement shall describe or explain: the territory served; the types and classes of service rendered; the general conditions under which services are rendered; the memorandum accounts (if any), balancing accounts, and adjustment clauses that might affect the utility's rates; and other tariff provisions that do not appear in the tariff rules or rate schedules. The preliminary statement shall explain the symbols used to identify tariff changes (see Public Utilities Code Section 491) as follows:

- (C) To signify changed listing, rule, or condition which may affect a rate, charge, term, or condition;
- (D) To signify discontinued material, including a listing, rate, charge, rule, or condition;
- (I) To signify a rate or charge increase;

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- (L) To signify material relocated to another part of tariff schedules with no change in text;
- (N) To signify new material including a listing, rate, charge, rule, or condition;
- (P) To signify material subject to change under a pending application or advice letter;
- (R) To signify a rate or charge reduction; and
- (T) To signify textual change that does not affect a rate, charge, term, or condition.

Whenever the “P” designation is no longer valid, the utility shall remove the “P” designation by submitting a substitute sheet.

9.5.4 Service Area

A utility authorized to serve the entire state shall include in its tariffs a statement of that fact. A utility authorized to serve part of the state shall include in its tariffs:

- (1) A map or maps showing the boundaries of the utility’s service area and the location of the service area in relation to nearby cities, highways, or other reasonable reference points; and
- (2) A verbal description of the utility’s service area using legal description, zip codes, Geographical Information System data, and/or other reasonable means for precisely specifying the boundaries of the service area.

The map provided pursuant to (1) of this rule may also satisfy the requirements of (2) if the map is of such scale and detail in relation to the service area boundaries as to enable clear and unambiguous determination of the boundaries without resort to verbal description.

The service area map or maps and verbal description shall be kept current and shall be appropriate in scale and detail to enable determination of whether specific real property is within the utility’s service area. The Industry Rules may contain additional requirements regarding maps and verbal descriptions, and the reviewing Industry Division may require revisions to the maps, or further specification of the boundaries, in order to eliminate ambiguity regarding the utility’s service area.

The respective Industry Divisions will establish compliance schedules for those utilities that, as of June 30, 2007, do not comply with the requirements of this General Rule to maintain service area maps on their Internet sites.

9.5.5 Rate Schedules

Each utility’s tariffs shall set forth all of its rate schedules, including for each schedule the schedule number or other designation, the schedule title (e.g., general, residential, “life-line,” low-income), the requirements to obtain service, the rates and charges (in tables if possible), and any special conditions, limitations, qualifications, or restrictions specific to the service or rates

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under the schedule. Amounts subject to refund, contingent charges, and offset surcharges are examples of such special conditions.

9.5.6 List of Contracts and Other Deviations

Except and to the extent excused by statute or Industry Rule or other Commission order, each utility shall compile and publish in its tariffs a list of all contracts and other deviations under which the utility provides service at rates or under conditions other than those contained in its tariffs then in effect. For each such contract or other deviation, the list shall state: the name and location of the customer; the type or class of service; dates of execution and expiration; the date and number of the Commission order authorizing the contract or other deviation; and the utility's most comparable rate schedule, together with a summary of how the contract or other deviation differs from that schedule.

If a utility has no such contract or other deviation then in effect, a statement of this fact shall be provided instead of this list.

9.5.7 Tariff Rules

Each utility's tariffs shall separately state those rules regarding its rates, charges, and services that are not fully set forth in its rate schedules. These tariff rules shall be stated in clear and readily understandable English. Each such tariff rule shall have a number, a descriptive title, and its own sheet or series of sheets. The following subjects, and other subjects as appropriate, shall be covered by tariff rule:

- (1) *Definitions* - Clear and concise definitions of the principal terms used in the tariffs.
- (2) *Description of Service* - Description of types of service rendered and standards of service maintained.
- (3) *Application for Service* - procedure to obtain service.
- (4) *Contracts* - When a contract will be required for service.
- (5) *Special Information Required on Forms* - Notices to customers required to appear on contracts, bills, and deposit receipts.
- (6) *Establishment and Re-establishment of Credit* - Procedure to establish credit and to re-establish credit.
- (7) *Deposits* - When required, conditions precedent to return, interest paid.
- (8) *Notices* - Methods of providing notice.
- (9) *Issuance and Payment of Bills* - Methods of issuing bills, billing periods, due dates, methods of payment.
- (10) *Disputed Bills* - Methods of adjustment, deposit of disputed amount with Commission, time limits for actions.

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- (11) *Discontinuance and Restoration of Service* - Reasons for discontinuance, notification, time limits for actions, procedure for restoration of service, charges.
- (12) *Information on Services and Promotional Offerings* - How to get information on services (including types of services, rate plans, conditions on eligibility, other terms and conditions) and promotional offerings available from the utility. Rule shall include office hours, telephone number, and (if applicable) e-mail address for contacting utility with requests for such information.
- (13) *Temporary Service* - Conditions to providing temporary service or service to speculative projects.
- (14) *Continuity of Service* - Interruption of delivery of service, notice to customers, apportionment of available service.
- (15) *Extensions of Lines or Mains* - Free extensions, extensions beyond free length, conditions regarding contributions or advances to individuals or developers, deposits, refunds, ownership, maintenance.
- (16) *Facilities on Customers' Premises and Service Connections* - Unless additional persons authorized, only utility employees to make service connections; right of access to customers' premises.

The Industry Rules may specify additional subjects to be covered by tariff rules of utilities within the respective industries. Subjects having special significance to particular utilities shall be covered either by inclusion in the tariff rules described above or by additional numbered tariff rules specifically addressing those subjects.

9.5.8 Sample Forms

Each utility's tariffs shall contain sample copies of printed forms, such as applications for service, regular bills for service, contract forms, delinquency notices, disconnect notices, connection fee data, deposit receipts, and all other forms of concern to customers in connection with the utility's services. Such sample copies may contain data for illustrative purposes. Each sample copy shall be printed on a regularly numbered tariff sheet showing the name of the form. For purposes of this General Rule, and except where prohibited by statute or Commission order, utilities may use forms developed by government agencies.

10.0 Confidential Treatment

10.1 General Provisions

In general, any information submitted in support of or in opposition to the relief requested in an advice letter will either be open to public inspection or will already be subject to confidential treatment pursuant to nondisclosure agreements and a protective order issued in a formal proceeding. Because matters governed by this General Order are informal, it is rarely appropriate to seek confidential treatment of information submitted in the first instance in the advice letter process. In any event, confidential treatment may be requested only for the kinds of

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information for which such treatment is authorized by statute, by prior Commission order, or by the provisions of this General Order.

10.2 Burden of Establishing Confidentiality

A person requesting confidential treatment under this General Order bears the burden of proving why any particular document, or portion of a document, must or should be withheld from public disclosure. Any request for confidential treatment of information must reference the specific law prohibiting disclosure, the specific statutory privilege that the person believes it holds and could assert against disclosure, the specific privilege the person believes the Commission may and should assert against disclosure, or the specific provision of General Order 66-C (or its successor) or other Commission decision that authorizes a document to be kept confidential.

10.3 Procedure for Establishing Confidentiality

Whenever a person submitting a document (other than an application for rehearing) under this General Order wants the Commission to keep the entire document under seal, or in redacted and unredacted versions, that person shall submit to the reviewing Industry Division a written request for such confidential treatment. The request shall either (1) attach a copy of the protective order that applies to the information for which confidential treatment is sought, or (2) explain why it is appropriate to accord confidential treatment to the information in the first instance in the advice letter process. In the latter case, the request shall attach a proposed protective order, or reference an effective protective order applicable to advice letter submittals previously submitted by the person. In either case, the request shall be narrowly drawn, shall identify the text and the information within the document for which confidential treatment is sought, and shall specify the grounds justifying such treatment.

Consistent with the above requirements, a utility may request confidential treatment for part of an advice letter; however, a utility may request confidential treatment for part of an advice letter that is effective pending disposition only if the utility concurrently provides access to the entire advice letter to those persons on its advice letter service list who have executed a reasonable nondisclosure agreement for purposes of advice letter review.

Whenever a request for confidential treatment of all or part of an advice letter is submitted to an Industry Division, the person desiring confidential treatment of information provided to the Commission shall at a minimum:

- (a) Include the following information in the cover sheet of the advice letter: (i) a statement that the utility is requesting confidential treatment of information submitted in the advice letter; (ii) specification of the information for which the utility is seeking confidential treatment; (iii) a statement that the information will be made available to those who execute a nondisclosure agreement; and (iv) a list of the name and contact information of the person or persons who will provide the nondisclosure agreement and access to the confidential information. The cover sheet of an advice letter, any of the information in the cover sheet, and any of the proposed tariff sheets included as part of the advice letter will not be kept confidential.

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- (b) Specifically indicate the information that the person wishes to be kept confidential, clearly marking each page, or portion of a page, for which confidential treatment is requested.
- (c) Identify the length of time the person believes the information should be kept confidential and provide a detailed justification for the proposed length of time, or identify the length of time a Commission decision addressing the information authorizes the information to be kept confidential. The business sensitivity of information generally declines over time and the balancing of interests for and against disclosure may change accordingly.
- (d) Identify any specific provision of state or federal law, or Commission decision, the person believes prohibits disclosure of the information for which it seeks confidential treatment and explain in detail the applicability of the law or decision to that information.
- (e) Identify any specific privilege, if any, the person believes it holds and may assert to prevent disclosure of information and explain in detail the applicability of that law to the information for which confidential treatment is requested.
- (f) Identify any specific privilege, if any, the person believes the Commission holds and may assert to prevent disclosure of information and explain in detail the applicability of that privilege to the information for which confidential treatment is requested.
- (g) State whether the person would object if the information were disclosed in an aggregated format.
- (h) State, to the best of one's knowledge, whether and how the person keeps the information confidential and whether the information has ever been disclosed to a person other than an employee of the utility or entity or to a non-market participant.

10.4 Duration of Confidentiality Claim

A confidentiality claim, whether or not specifically acted upon by the Commission or Industry Division, expires on the earliest of the following dates: (a) at the end of the period specified by the person in the initial confidentiality claim; (b) at the end of a period specified in a specific Commission ruling or decision; or in the event (a) or (b) are inapplicable, then (c) two years after the claim was first asserted before the Industry Division. To reassert the confidentiality claim, the person must again satisfy the requirements of this General Order before the end of the confidentiality period.

10.5 Objection to Confidentiality Claim

Any person may object to the requested confidential treatment, and shall meet and confer with the requester to resolve such objections informally whenever possible. When such objections are not so resolved, the Industry Division will refer the request to the Administrative Law Judge Division. Confidential treatment shall be accorded pending a ruling on the request; however, the Industry Division, in appropriate circumstances, may issue a notice delaying the effective date of the advice letter pending the ruling.

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10.6 Disposition of Confidentiality Claim

In the case where a protective order has not yet been issued, if the Industry Division determines that confidential treatment is warranted, review of the advice letter shall proceed in the normal fashion. If the Industry Division determines that confidential treatment is not warranted, then the Industry Division shall (a) proceed with review of the advice letter, and (b) attempt to informally resolve the dispute with the submitting party. If the Industry Division and submitting party are unsuccessful in resolving the dispute, the submitting party shall be given 10 days, following Industry Division notification that confidentiality will not be afforded, to appeal the confidentiality issue to the Administrative Law Judge Division. Confidentiality will continue to be afforded while the appeal is pending.

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ENERGY INDUSTRY RULES

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Energy Industry Rules

Industry Rule 1. Additional Definitions

In addition to the definitions in General Rules 3 to 3.16, the following definitions apply to the defined terms, which will appear with the initial letter capitalized when used in these Industry Rules.

1.1 Contract

An agreement between a Utility and a developer or customer to provide service under rates or conditions not offered in the Utility's tariffs.

1.2 Industry Rule

An Industry Rule contained in the Energy Industry Rules, as set forth in General Order 96-B or its successor.

1.3 Load-Serving Entity

An electrical corporation, electric service provider, or community choice aggregator. See Public Utilities Code Section 380(j).

1.4 Staff

The Energy Division (or its successor).

1.5 Utility

A public Utility that, as defined in the Public Utilities Code, is an electrical, gas, heat, or pipeline corporation.

Industry Rule 2. Submitting a Document (see General Rule 7.1)

The Energy Division Filings Room will process documents submitted to the Energy Division for filing, including information-only filings and advice letters and associated documents (such as protests, responses, replies, and supplements). A document may be submitted in person, by delivery service, or by mail to the Energy Division Filings Room, 505 Van Ness Ave., 4th Floor, San Francisco, CA 94102-3298.

A Utility submitting an advice letter shall provide an original and five copies of the advice letter, one copy of the workpapers (if any), and an original and five copies of each affected tariff sheet. A Utility submitting an information-only filing shall submit an original and one copy, and shall cite the statute or Commission order requiring the filing.

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Industry Rule 3. Notice and Service Procedures

3.1 Notice to Customers

Unless otherwise required by a Commission order issued after September 6, 2007, exceptions to General Rule 4.2 are authorized, and no customer notice is required, for the following categories of Energy Industry advice letters:

- (1) An electrical, gas, heat, or pipeline Utility advice letter that requests higher rates or charges, or more restrictive terms or conditions of service, where the increased rates or charges, or changes to terms or conditions of service, as requested in the advice letter, have been specifically authorized by statute or by a prior Commission order;
- (2) A weekly, monthly, or semi-annual advice letter filed by a gas Utility in accordance with Commission authorized procedures to change gas rates based on changes in the price of gas;
- (3) A monthly advice letter filed by an electrical Utility in accordance with Commission authorized procedures to change electric rates based on changes in diesel fuel costs (see Resolution E-3849); and
- (4) An advice letter filed by an electrical Utility in accordance with Commission authorized procedures to pass through increases to electric rates or charges for electric transmission related costs that have been filed with and become effective at the Federal Energy Regulatory Commission. (See Resolution E-3930.)

3.2 Serving Advice Letters (see General Rules 4.3, 7.2)

On or before the date an advice letter is submitted for filing, in addition to serving the advice letter as required by General Rule 7.2, the Utility shall serve the advice letter, or a notice of the advice letter (containing a summary of major provisions and information on accessing or ordering the entire advice letter), as follows:

- (1) If the advice letter requests approval of a Contract or other deviation, serve all parties to the Contract or other deviation.
- (2) If the advice letter requests approval of rates for an oil pipeline not previously in Utility service, serve all current or potential customers of the oil pipeline.
- (3) If the advice letter requests approval of a rate change for an oil pipeline already in Utility service, serve all shippers and submit to the Energy Division Filings Room at least 30 days before the requested effective date.
- (4) Except for an advice letter described in Industry Rule 3.1 or in (3) of this Industry Rule, if the advice letter requests a change that would cause an increase in a rate or charge, reduction in service, discontinuance of a program, closing a rate schedule to new customers, canceling a rate schedule, or abandoning service to an area, serve all affected customers.
- (5) If the advice letter proposes a new product or service, serve all Utilities and other providers that are providing service within the area to be served.

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Industry Rule 4. Numbering Advice Letters

For each type of service rendered, a Utility shall number its advice letters sequentially, beginning with No. 1, followed by a letter designating the type of service (E for electric, G for natural gas, H for heat, O for oil pipeline). A Utility may not reuse an advice letter number, regardless of whether the advice letter bearing that number was approved, withdrawn, or rejected. (See also General Rules 4.6, 5.3, 8.4 & 8.5.)

Industry Rule 5. Tier Classifications for Advice Letters

A Utility submitting an advice letter shall designate the appropriate tier, based on the content of the advice letter. A Tier 1 or Tier 2 advice letter is subject to disposition under General Rule 7.6.1; a Tier 3 advice letter is subject to disposition under General Rule 7.6.2.

5.1 Matters Appropriate to Tier 1 (Effective Pending Disposition)

A matter appropriate to Tier 1 may be designated by a Utility in its advice letter as effective pending disposition. (For advice letters pursuant to General Rule 8.2.3, see Industry Rule 5.3.) Matters appropriate to Tier 1 are:

- (1) A tariff change in compliance with specific requirements of a statute or Commission order where the wording of the change follows directly from the statute or Commission order.
- (2) A non-substantive editorial change to the text of a tariff, such as correcting a typographical error. A non-substantive change does not affect a rate, charge, term, or condition under the tariff.
- (3) A change in a rate or charge pursuant to an index or formula that the Commission has approved for use in an advice letter by the Utility submitting the advice letter, not including the first time the Utility uses that index or formula. This Industry Rule does not cover a change in a methodology, such as a methodology approved by the Commission for use by a Utility for performance-based ratemaking.
- (4) A Contract that conforms to a Commission order authorizing the Contract, and that requests no deviation from the authorizing order (e.g., a gas storage Contract in exact conformity with Decision 93-02-013).
- (5) Establishment of tariff rates and charges for an oil pipeline that has not previously filed any tariffs with the Commission.
- (6) Initial tariffs for a new service by an oil pipeline, including service on a pipeline segment commencing Utility service.
- (7) A change to an existing tariff rate by an oil pipeline, as provided in Industry Rule 8.
- (8) Withdrawing a service, abandoning service within an area, canceling a rate schedule, or closing a rate schedule to new customers when authorized by a prior Commission decision, resolution, or order.

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5.2 Matters Appropriate to Tier 2 (Effective After Staff Approval)

Matters appropriate to Tier 2 are:

- (1) A change in a rate or charge pursuant to an index or formula that the Commission has approved for use in an advice letter by the Utility submitting the advice letter but that the Utility has not used previously for this purpose. This Industry Rule does not cover a change pursuant to a methodology, such as a methodology approved by the Commission for use by a Utility for performance-based ratemaking.
- (2) A tariff change that is consistent with authority the Commission previously has granted to the Utility submitting the advice letter, such as a rate change within a price floor and ceiling previously approved by the Commission for that Utility.
- (3) A refund program to comply with a Commission order requiring the refund.
- (4) A request relating to a substation or power line under Section III.B.1 of General Order 131.
- (5) A rate or revenue requirement update for performance-based ratemaking as approved by the Commission for the Utility submitting the update.
- (6) Amortization of a balance in a balancing account if the Commission has specified both (i) the amortization period, and (ii) the rate component by which the balance will be amortized.
- (7) An advice letter otherwise appropriate to Tier 1 but for which the Utility submitting the advice letter requests review and disposition under Tier 2.

5.3 Matters Appropriate to Tier 3 (Effective After Commission Approval)

An advice letter submitted under (8) of this Industry Rule may be designated by the Utility as effective pending disposition; all other matters appropriate to Tier 3 may become effective only after Commission approval. Matters appropriate to Tier 3 are:

- (1) A matter appropriate to an advice letter but not subject to review and disposition under Tier 1 or 2. (See General Rules 5.1 and 5.2.)
- (2) A tariff change in compliance with a statute or Commission order where the wording of the change does not follow directly from the statute or Commission order.
- (3) Except as provided in Industry Rule 5.1(6), a new product or service.
- (4) Except for a change that may be submitted by advice letter pursuant to Industry Rules 5.1(1), 5.1(3), 5.1(7), 5.2(1), or 5.2(2), a change that would result in an increase to a rate or charge or a more restrictive term or condition, which change has been authorized by statute or by other Commission order to be requested by advice letter.
- (5) Except as provided in Industry Rule 5.1(4) and in (8) of this Industry Rule, a Contract or other deviation. (See also Industry Rule 7.)

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- (6) Withdrawing a service, abandoning service within an area, canceling a rate schedule, or closing a rate schedule to new customers, unless the action is authorized by a prior Commission decision, resolution, or order (in which case the action may be eligible for Tier 1).
- (7) A fund transfer within or between demand-side management or research, development, and demonstration balancing accounts.
- (8) Service to a government agency pursuant to General Rule 8.2.3.
- (9) A change to a rate or charge pursuant to a methodology approved by the Commission for use in an advice letter, such as an annual performance review for performance-based ratemaking as approved by the Commission for the Utility submitting the advice letter.

Industry Rule 6. Additional Tariff Requirements

Industry Rules 6.1 to 6.4 contain tariff requirements that, as authorized by the General Rules (see in particular General Rules 8.1, 8.5, and 8.5.4), are other than or in addition to the General Rule requirements for Internet publication, service area description, and tariff contents.

6.1 Internet Publication

A Utility that must comply with the requirement to publish its tariffs at an Internet site (see General Rule 8.1.2) shall implement the requirement as follows. The requirement shall apply to each tariff sheet used by the Utility on or after the date upon which the Utility must publish its tariffs at a site on the Internet. As of that date, the Utility shall publish all of its tariff sheets then in effect or pending review and disposition. From that date onward, the Utility shall publish within five business days each new tariff sheet (or the advice letter including or attaching each new tariff sheet) that it submits for review and disposition. For each published tariff sheet, the Utility shall also publish and keep up-to-date the status of the tariff sheet (i.e., in effect; pending review and disposition; withdrawn (see General Rule 5.3); rejected; or no longer in effect). A tariff sheet number may be used only once, and all tariff sheets published at the Utility's Internet site shall remain accessible at the site unless and until the Commission authorizes an alternative electronic means of publishing and enabling public access to the Utility's tariffs.

6.2 [Reserved]

6.3 Written Agreement Required by Tariff

If a tariff provides that a written agreement must be executed by a customer as a condition to the customer's receiving service under the tariff, the executed agreement need not be submitted for approval or filing; however, when submitting the tariff for approval, the Utility shall submit the form of agreement that will be used for purposes of the tariff. The form shall contain substantially the following clause: "This agreement at all times shall be subject to such modifications as the California Public Utilities Commission may direct from time to time in the exercise of its jurisdiction."

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6.4 Tariff Rules

A Utility shall include in its tariffs, in addition to the tariff rules specified in General Rule 8.5.7, the following tariff rules, numbered as shown:

Tariff Rule 17: Meter Tests and Adjustment of Bills for Meter Error

Tariff Rule 18: Supply to Separate Premises and Resale

The Industry Division may exempt a utility from including Tariff Rules 17 or 18 if (a) the utility's existing tariffs already include comparable language; (b) a Commission decision, resolution, or order requires different tariff rules for a specific utility, or (c) the language of these rules is not appropriate to the utility's method of operation.

Industry Rule 7. Contract or Other Deviation

7.1 Generally

After a Utility enters into a Contract or other deviation, the Utility shall submit an advice letter requesting approval and updating its list of Contracts and other deviations (see General Rule 8.5.6). The Contract shall contain substantially the following clause: "Unless otherwise expressly ordered by the California Public Utilities Commission, this Contract at all times shall be subject to such modifications as the Commission may direct from time to time in the exercise of its jurisdiction." In addition, except for a Contract that is authorized to be submitted pursuant to Industry Rule 5.1(4) or 5.3(8), the Contract shall contain substantially the following clause: "This Contract does not become effective unless and until approved by the California Public Utilities Commission."

7.2 Customer Protest

A customer may protest an advice letter in which a Utility seeks approval of a Contract or other deviation for the purpose of providing service to that customer. Such protest, if it only concerns a rate or charge under the Contract or other deviation, may include a request for service pending disposition of the advice letter. Staff will approve the request for service unless, based either on another protest or Staff's own analysis, Staff finds that there is a substantial issue that should be resolved before service is provided; however, if Staff approves the request, Staff will require the customer, as a condition of such service, to deposit with the Commission the sum(s) of money in dispute pending disposition of the advice letter.

Industry Rule 8. Rate Change by Oil Pipeline (see Public Utilities Code Section 455.3)

The following procedures govern review and disposition of an advice letter requesting approval of a rate change by an oil pipeline already in Utility service. These procedures, to the extent they are inconsistent with the procedures otherwise provided by this General Order (see General Rules 7.5, 7.6.1; Industry Rules 5, 5.1), supersede the latter procedures.

8.1 Effective Date; Suspension

An oil pipeline shall submit its advice letter requesting approval of a rate change (see Industry Rule 2), and shall serve the advice letter on all affected shippers, at least 30 days in

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advance of the requested effective date. (See Industry Rule 3.) The rate change, on the later of the requested effective date or 30 days after the date of filing, may be made effective pending disposition of the advice letter; however, if a requested increase exceeds a maximum of 10 percent per 12-month period, only the portion of the rate increase not exceeding that maximum may be effective pending disposition.

Staff may suspend a rate change, including an increase up to and including the maximum, once only and for a period not to exceed 30 days from the date when the oil pipeline might otherwise put the rate change into effect; the suspended rate change may be made effective at the end of that suspension, even if disposition of the advice letter is still pending. The portion that exceeds the maximum shall become effective only as provided in Industry Rule 8.2.

8.2 Disposition

Only a rate change that is neither suspended by Staff nor protested, and only to the extent it is not an increase exceeding the maximum (see Industry Rule 8.1), will be deemed approved, and such deemed approval will occur 30 days after the date of filing. An advice letter that is suspended but not protested and that does not request a rate increase exceeding the maximum will be subject to disposition as provided in General Rule 7.6.1. An advice letter that either is protested or requests a rate increase exceeding the maximum will be disposed of by resolution.

Within 30 days after the date of disposition of the advice letter, the oil pipeline shall refund to all shippers, with interest computed at the three-month commercial paper rate published by the Federal Reserve Board and accruing from the date the new rate was first charged, any portion of the rate change that is disapproved. For an advice letter that requests a rate increase exceeding the maximum, the disposition of the advice letter will determine the appropriateness of allowing retroactive charge and collection of an approved rate increase above the maximum.

Industry Rule 9. Compliance Filing by Load-Serving Entity (see Public Utilities Code Section 380)

A compliance filing by a Load-Serving Entity is not subject to protest but is otherwise subject to review and disposition under General Rules 7.5.1, 7.5.2, and 7.6.1.

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WATER INDUSTRY RULES

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Water Industry Rules

Industry Rule 1. Additional Definitions

In addition to the definitions in General Rules 3 to 3.16, the following definitions apply to the defined terms, which will appear with the initial letter capitalized when used in these Industry Rules.

1.1 Balancing Account (see Public Utilities (Pub. Util.) Code Section 792.5)

A deferred charge or credit account approved by the Commission for recovery or refund (see General Rule 8.5.3).

1.2 Class A, Class B, Class C, Class D (see Decision (D.) 85-04-076)

A Utility is designated Class A if it serves over 10,000 service connections, Class B if it serves 2,001 through 10,000 service connections, Class C if it serves 501 through 2,000 service connections, and Class D if it serves no more than 500 service connections.

1.3 Compliance Advice Letter

An advice letter requesting approval of the utility's proposed implementation of a specific mandate in a statute or Commission order. Typically, a Compliance Advice Letter requests that tariff changes attached to a decision or resolution be made effective.

1.4 Contact Person

A person identified on the title page of a Utility's tariffs as the Utility's authorized representative for all rate and service quality matters.

1.5 Contract

An agreement between a Utility and a developer or customer to provide service under rates or conditions not offered in the Utility's tariffs or standard form contracts.

1.6 Industry Rule

An Industry Rule contained in these Industry Rules, as set forth in General Order 96-B or its successor.

1.7 Informal General Rate Case (see D.92-03-093)

A general rate case for a Class B, Class C, or Class D Utility that is requested by advice letter rather than by formal application.

1.8 Memorandum Account (see D.85-04-076)

A deferred charge or credit account that, as described in the Utility's preliminary statement (see General Rule 8.5.3) has been authorized by the Commission; however, deferred charges or credits shown in the Memorandum Account may be recovered in rates only after a request by the Utility, a showing of their reasonableness, and approval by the Commission.

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1.9 Staff

The Water Division (or its successor).

1.10 Standard Practice

A Water Division document that provides procedural guidelines (1) to the public and Utilities for preparing, and filing with the Water Division or the Commission, various documents, including formal applications and advice letters, and (2) to Staff for reviewing such documents and creating Water Division work products. Copies of Standard Practices are available on request from the Water Division and are published on the Commission's Internet site.

1.11 Utility

A public Utility that is a water corporation (see Pub. Util. Code § 241) or a sewer system corporation (see Pub. Util. Code § 230.6).

Industry Rule 2. Filing Advice Letters, Information-only Filings

A Utility may use any one of the following procedures when filing its advice letter (General Rule 7.1) or information-only filing (General Rule 6.1) with the Water Division:

- (1) File the document in person, by delivery service, or by mail to the Water Division, Room 3102, State Building, 505 Van Ness Ave., San Francisco, CA 94102-3298;
- (2) File the document by facsimile to (415) 703-4426 (703-4H2O); or
- (3) File the document by electronic mail to water_division@cpuc.ca.gov.

These procedures also apply to filing of documents pertaining to an advice letter, e.g., a protest, response, reply, substitute sheet, or supplement.

A Utility filing an advice letter shall provide an original and two copies with workpapers. A Utility filing an information-only filing shall provide an original and one copy.

Industry Rule 3. Methods of Customer Notice (see General Rule 4.2)

3.1 Method of Notice for Advice Letter Increasing Rates

A Utility shall give notice by bill insert or by separate mailing of an advice letter requesting approval of a more restrictive term or condition, or of a rate or charge increase, except that if the requested revenue increase is an offset increase of less than ten percent of the revenue requirement last authorized for the Utility (or district of the Utility for which the increase is requested), the Utility may give notice of the requested increase by publishing a legal notice in a newspaper of local circulation or, if no such newspaper exists, by posting notice prominently in an area in which customers normally gather. Mailed notice should be provided, whenever possible, to the customer's permanent mailing address if a Utility serves a high percentage of vacation homes. A Class A Utility shall provide a link to the advice letter on the Utility's internet site.

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Staff will create the notice of an Informal General Rate Case advice letter and provide the notice to the Utility for distribution by bill insert or special mailing.

3.2 Special Notice Rules for Compliance Advice Letter, Certain Tier 1 Advice Letters

Normally, notice to customers of a Compliance Advice Letter need not be provided; however, for a Compliance Advice Letter submitted in an Informal General Rate Case, the Utility shall give notice using the form provided by the Water Division (see Standard Practice U-9-W).

Following an advice letter increasing rates as a Balancing Account amortization, CPI offset, expense offset, or pass-through of additional taxes, the Utility shall inform its customers, by bill insert in the first bill that includes the increase, of the amount of the increase, expressed in dollar and percentage terms.

3.3 Other Required Notice

In addition to the notice required by General Rule 4.2 and Industry Rule 3.1, a Class A Utility shall publish at its Internet site the notice and contents of each advice letter it has submitted whose disposition is pending. For a particular advice letter, the Director of the Water Division may require a Utility to give notice to other persons, or by other means, in addition to those specified in these Industry Rules.

Industry Rule 4. Serving Advice Letters (see General Rules 4.3 & 7.2)

At the option of the recipient, the Utility shall serve the entire advice letter, tariffs and workpapers; the advice letter and tariffs; or just the cover sheet (see General Rules 4.6 and 5.3). Except as provided in Industry Rule 4.1, service of one copy of an advice letter shall be without charge.

4.1 Advice Letters Generally

When filing any advice letter, the Utility shall serve it on the following persons:

- (1) customers, developers, municipalities, counties, and other governmental agencies, in or partially in the service area(s) affected, who have requested a particular advice letter or have requested inclusion on the Utility's advice letter service list (see General Rule 4.3);
- (2) adjacent Utilities (including, for purposes of this Industry Rule, publicly-owned utilities); and
- (3) other interested persons, such as parties of record in a related proceeding or persons having a specific interest in the advice letter.

4.2 Service Area Extension or Transfer of Ownership (see Industry Rule 8.1)

When filing an advice letter for service area extension or transfer of ownership, the Utility shall serve it on the Local Agency Formation Commission (LAFCO) for each county in which service will be extended, and on each owner of real property, local fire protection agency, and subdivision permitting agency in the area in which service will be extended.

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4.3 Contract or Other Deviation (see Industry Rule 8.3.)

When filing an advice letter for a Contract or other deviation, the Utility shall also serve it on each customer for whom the Contract or other deviation is proposed. The advice letter shall state that the customer may object to it or seek a modification by submitting a protest.

4.4 Withdrawal or Withholding of Service (see Industry Rule 8.7)

When filing an advice letter for withdrawal or withholding of service, the Utility shall also serve it on each owner of real property in the affected area.

Industry Rule 5. Tariff Sheet Numbering (see General Rule 8.4.)

At the Utility's option, the numbers for new tariff sheets may be left blank, in which case staff will assign sheet numbers. A multiple-service Utility shall use the appropriate designator (SS for Sewer System, W for Water) as a suffix to the sheet number.

Industry Rule 6. Advice Letter Supplements (see General Rule 7.5.1)

A change to a pending advice letter that is necessary to correct minor errors, or a minor editorial change to the text, may be made by a supplement. A change that results in a higher revenue requirement, or greater diminution of service, from that noticed in the original advice letter must be made by a new advice letter.

Industry Rule 7. Disposition of Advice Letters

7.1 Initial Review

If an advice letter (including its cover sheet) is incomplete (see General Rules 4.6 and 4.7), Staff will so inform the Utility and may either delay filing until corrections are made or return the advice letter without filing.

7.2 Effective Date (see General Rule 7.3)

The following provisions vary the otherwise applicable General Rules.

- (1) A Compliance Advice Letter will become effective as specified in the applicable resolution or decision, or if not specified, five days after the date of filing.
- (2) Upon request and justification by the Utility, Staff may allow a Tier 2 advice letter to be made effective, subject to refund, in less than 30 days.
- (3) An advice letter that is an Informal General Rate Case will become effective as provided in the Service Guarantee Plan (Standard Practice U-9-W).

7.3 Tier Classifications for Advice Letters

Water and sewer system advice letters are classified as Tier 1, 2, or 3 for purposes of review and disposition, as shown below.

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7.3.1 Tier 1

The following advice letters are effective pending disposition, do not require notice under General Rule 4.2, and are generally subject to approval or rejection by Staff (including deemed approval) pursuant to General Rule 7.6.1, except as indicated below:

- (1) Balancing Account amortization (see Industry Rule 8.5);
- (2) Change to sample forms (see General Rule 8.5.8);
- (3) Compliance with mandatory statute, decision, or resolution;
- (4) Consumer Price Index (CPI) offset;
- (5) Decrease in rates;
- (6) Escalation filing;
- (7) Expense offset (see Industry Rule 8.4);
- (8) Pass-through of additional taxes imposed on Utility;
- (9) Service to a government agency (see General Rule 8.2.3); but such advice letter shall be subject to disposition by Commission resolution as provided by General Rule 7.6.2; and
- (10) Emergency voluntary conservation program.

7.3.2 Tier 2

The following advice letters are effective only upon approval, but may be deemed approved and are generally subject to approval or rejection by staff pursuant to General Rule 7.6.1:

- (1) Approval of post-acquisition rates of mutual or municipal water company (see D.99-10-064);
- (2) Contract or other deviation (or tariff sheets providing service to a single customer) (see Industry Rule 8.3);
- (3) Department of Health Services (DHS) fee offset;
- (4) New service offering;
- (5) New Memorandum Account request;
- (6) Recycled water service (as provided in Industry Rule 8.6);
- (7) Request for similar treatment (as provided in Industry Rule 8.2);

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- (8) Service extension into contiguous area or within city in which the Utility already provides service (Water Supply and Certification Questionnaire required) (see Industry Rule 8.1);
- (9) Transfer of ownership interest pursuant to Pub. Util. Code § 853(c);
- (10) Withdrawal of tariff schedule that has no customers; and
- (11) Provision of non-tariffed services (see D.00-07-018, D.03-04-028 & D.04-12-023).

7.3.3 Tier 3

The following advice letters may not be deemed approved and generally will be disposed of by Commission resolution pursuant to General Rule 7.6.2:

- (1) Change in ownership or control due to court proceeding, other than transfer of ownership pursuant to Pub. Util. Code § 853(c) (see Industry Rule 7.3.2(12));
- (2) Change to Commission resolution;
- (3) Closing tariff schedule to new customers;
- (4) Establish a new non-tariffed investment or recategorize an existing non-tariffed investment (see D.00-07-018);
- (5) Informal General Rate Case;
- (6) Loan approval or stock sale permission request by Class C or Class D Utility (see D.93-11-066);
- (7) Memorandum Account amortization (see Standard Practice U-27-W);
- (8) Rate base offset except that a Rate base offset will be disposed of under Tier 2 when staff determines that:
 - (i) The Rate base offset was previously approved by the Commission in a decision or resolution;
 - (ii) The project scope is consistent with what the Commission approved; and
 - (iii) The Commission approval included a budget cap and the rate base offset request is at or below the budget cap.
- (9) Revocation of certificate of public convenience and necessity due to abandonment or sale to municipality or special district;
- (10) Transfer of ownership of inadequately operated and maintained Class C or Class D water Utility (see D.99-10-064);
- (11) Withdrawal or withholding of service (see Industry Rule 8.7); and
- (12) A matter appropriate to advice letter but not subject to approval or rejection under Industry Rules 7.3.1 or 7.3.2.

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Industry Rule 8. Procedures for Specific Types of Advice Letters

8.1 Service Extension into Contiguous or Other Area (see Pub. Util. Code §§ 1001, 2709, 8202; Industry Rules 4.2, 7.3.2(10))

A service area extension is into a contiguous area for purposes of this Industry Rule if (1) the distance between the existing service area and the new area does not exceed 2,000 feet at the points of closest proximity, or (2) service will be provided by the extension of line, plant, or system from the Utility's existing service area. If entirely separate sources of supply and distribution are used in the new area, and the separation is over 2,000 feet, the extension is not contiguous, and the Utility must seek authority by means of a formal application to serve the new area.

At least 30 days before (1) commencing service in an area within a city in which the Utility is already providing service, (2) extending service to a contiguous area, or (3) taking ownership of a mutual or municipal water company, the Utility shall submit a service area map delineating the added area, and proof that the utility already has a water supply adequate to serve the areas or a plan to obtain such a supply. (See Standard Practices U-14-W and U-18-W.)

8.2 Request for Similar Treatment (see Industry Rule 7.3.2(8))

A Utility may submit an advice letter requesting approval, authorization, or other relief similar to that accorded another Utility by Commission order. The advice letter shall cite each decision or resolution relied upon, and shall demonstrate that the Utility submitting the advice letter is similarly situated in all material respects, and is requesting the same relief and relying on the same justification as in the cited order(s).

8.3 Contract or Other Deviation (see Pub. Util. Code §§ 532, 2712; General Rule 8.5.6; Industry Rules 4.3, 7.3.2(3))

After entering into a Contract or other deviation, but at least 30 days before the effective date of the rate or service, the Utility shall file an advice letter requesting approval and updating its list of Contracts and other deviations.

Each Contract shall contain substantially the following provisions:

- (1) "This Contract may not become effective until it is approved by the California Public Utilities Commission"; and
- (2) "This Contract at all times shall be subject to such modifications as the California Public Utilities Commission may direct from time to time in the exercise of its jurisdiction."

A customer may protest an advice letter in which a Utility seeks approval of a Contract or other deviation for the purpose of providing service to that customer. Such protest, if it only concerns a rate or charge under the Contract or other deviation, may include a request for service pending disposition of the advice letter. Alternatively, in that situation, the Utility may request to provide service pending disposition of the advice letter. Staff will approve the request for service unless, based either on another protest or Staff's own analysis, Staff finds that there is a substantial issue that should be resolved before service is provided; however, if Staff approves the

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request, Staff will require the customer, as a condition of such service, to deposit with the Commission the sum(s) of money in dispute pending disposition of the advice letter.

8.4 Expense Offset (see Industry Rule 7.3.2(5))

When a Utility knows that an expense subject to offset is likely to change in the future, it shall file an advice letter for a concurrent change in rates. When an expense subject to offset changes without warning, the affected Utility shall file an advice letter within 60 days of the change seeking to adjust the rates accordingly.

8.5 Balancing Account Amortization (see Industry Rule 7.3.1(1))

A Utility shall promptly file an advice letter seeking to amortize an over- or under-collected balancing account when the balance exceeds two percent of the most recent annual report revenue for the Utility (or district of the Utility). An over-collection shall be refunded as soon as possible by crediting the service charge. An under-collection shall be recovered within one year by a surcharge on the service charge or commodity charge, as appropriate (see Standard Practice U-15-W). A Utility may not request recovery for an under-collection that is over three years old.

8.6 Recycled Water (see Pub. Util. Code § 455.1; Industry Rule 7.3.2(8))

If an advice letter requesting an initial rate or a rate increase for recycled water service is protested, the matter shall be set for hearing, the tariff schedules shall become effective, subject to refund, 30 days after the date of filing, and the Commission will dispose of the advice letter by resolution. If Staff requests additional information from the Utility, and if the Utility appropriately supplements the advice letter within 10 days of receiving Staff's request, the tariff schedules in the supplement shall become effective, subject to refund, five days after the date of filing of the supplement, and the Commission will dispose of the advice letter by resolution.

8.7 Withdrawal or Withholding of Service (see Pub. Util. Code §§ 2708, 2710, 2711; Industry Rule 7.3.3(11))

A Utility shall provide service to any person in its service area on demand, in accordance with its tariffs; however, if a water shortage exists, or if the Department of Health Services has imposed a building permit moratorium, or if other good cause requires, the Utility shall file an advice letter requesting either (1) approval to withdraw service from all or part of its service area (including a new service area map), or (2) Commission imposition of a service connection moratorium and Commission authorization before withholding service.

8.8 Service to Government Agency (see General Rule 8.2.3; Industry Rule 7.3.1(7))

An advice letter to provide service to a government agency pursuant to General Rule 8.2.3 may be designated by the Utility as effective pending disposition.

Industry Rule 9. Tariff Publication, Format

Each Class A Utility shall be subject to the Internet publication requirements of General Rule 8.1.2.

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9.1 Tariff Schedules

Water Rate Schedules shall be published, as appropriate, for each of the Utility's districts:

- (1) General Metered Service;
- (2) Flat Rate Service;
- (3) Irrigation Service;
- (4) Fire Sprinkler Service;
- (5) Private Fire Protection Service (see Pub. Util. Code § 2713 (b));
- (6) Recycled Water Service;
- (7) Construction and Other Temporary Metered Service;
- (8) Service to Employees;
- (9) Water Conservation Plan; and
- (10) Other water or sewer services.

The above schedules shall be followed or preceded by schedules applicable to multiple districts such as:

UF—Surcharge to fund Public Utilities Commission Reimbursement Fee

LC—Late Payment Charge

FF—Facilities Fees

Sewer System Rate Schedules shall be numbered and printed in the following order, for each of the Utility's districts:

- (1) Sewer Service or General Residential Service
- (2) Commercial and Industrial Service

The above schedules shall be followed or preceded by schedules applicable to multiple districts such as:

UF—Surcharge to Fund Public Utilities Commission Reimbursement Fee

LC—Late Payment Charge

Tariff sheets may not contain marks or alterations unless approved by staff. Only one side of a sheet may be used.

9.2 Tariff Rules (see General Rule 8.5.7)

A Utility shall include in its tariffs, following the tariff rules specified in General Rule 8.5.7, these additional tariff rules, numbered as follows:

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Tariff Rule 17: Standards for Measurement of Service—Method of measuring, accuracy limits

Tariff Rule 18: Meter Tests and Adjustment of Bills for Meter Error—Specification of conditions, fees, and frequency of tests

Tariff Rule 19:

For Water Utilities: Supply to Separate Premises and Multiple Units—Separate metering on separate premises

For Sewer System Utilities: Resale of (Sewer) Service—Conditions for resale

Tariff Rule 20:

For Water Utilities: Water Conservation—Use of water- saving devices, provision of free water-saving kits

For Sewer System Utilities: Limitation on Wastes Discharged into the Utility's Sewer System—Items that may not be disposed of through the sewer system

Tariff Rule 21:

For Water Utilities: Fire Protection—General rules for fire protection service

For Sewer System Utilities: Commercial, Institutional and Industrial Wastes—Notice of waste discharge and preliminary treatment

Industry Rule 10. Service Area Maps (see General Rule 8.5.4)

A Utility shall prepare a digital map of its authorized service area boundaries prepared using a common projection and datum that meets a minimum resolution of 1:24,000 scale, distributed in an open format and accompanied by Federal Geographic Data Committee (FGDC)-compliant metadata. In addition, a utility shall provide a digital basemap (in TIF or PDF format) for printing that includes, at a minimum, its service area, major roads, and relevant administrative boundaries (e.g., counties, cities, federal and state land).

A Utility shall submit the map, and updates as the authorized service area changes, to the Water Division and to the Local Agency Formation Commission (LAFCO) for each county within the Utility's authorized service area. The Water Division will establish detailed map specifications and compliance schedules for the preparation of digital maps; but in no event will the compliance schedule extend beyond December 31, 2007, for Class A Utilities and December 31, 2008, for all other Utilities.

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TELECOMMUNICATIONS INDUSTRY RULES

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Telecommunications Industry Rules

Industry Rule 1. Additional Definitions

In addition to the definitions in General Rules 3 to 3.16, the following definitions apply to the defined terms, which appear with the initial letter capitalized when used in these Industry Rules.

1.1 Basic Service

“Basic Service” means the service elements, as specified in Decision 96-10-066 (Appendix B, Part 4) and as modified from time to time by the Commission, that a provider of local exchange service must offer to each residential customer who requests local exchange service from the provider.

1.2 Carrier of Last Resort

“Carrier of Last Resort” means a carrier that has specific duties regarding the provision of Basic Service and universal service, as specified in Decision 96-10-066 and as modified from time to time by the Commission.

1.3 Compliance Advice Letter

“Compliance Advice Letter” means an advice letter seeking approval of the Utility’s proposed implementation of a specific requirement in a statute or Commission order.

1.4 Freezing of Service

“Freezing” or “Freezing of Service” means discontinuing a service’s availability to customers, other than those customers receiving the service from the Utility as of the date that the Utility freezes the service.

1.5 GRC-LEC

“GRC-LEC” means a local exchange carrier that is regulated through cost-of-service regulation.

1.6 Industry Rule

“Industry Rule” means an Industry Rule in the Telecommunications Industry Rules, as set forth in General Order 96-B or its successor.

1.7 Market Trial; Technical Trial

“Market Trial” or “Technical Trial” means a New Service offered only for a specified limited duration for the purpose of testing or evaluating the service.

1.8 New Service

“New Service” means a service that (i) is distinguished from any existing service offered by the Utility by virtue of the technology employed; or (ii) includes features or functions not previously offered in any service configuration by the Utility.

1.9 Promotional Offering; Promotional Platform

“Promotional Offering” means an existing service offered under tariffed terms temporarily deviating from the otherwise applicable tariff in order to promote the service. “Promotional Platform” means a tariffed description of service for which a GRC-LEC may make a Promotional Offering.

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1.10 Resale Service

“Resale Service” means a tariffed service that a carrier offers to another carrier for resale.

1.11 Staff

“Staff” means the Communications Division (or its successor).

1.12 Telecommunications Advice Letter Coordinator

“Telecommunications Advice Letter Coordinator” means the person who processes documents submitted to the Communications Division for filing.

1.13 Transfer

“Transfer” means a Transfer of assets (including the entire customer base or an entire class of customers) and/or Transfer of control.

1.14 URF Carrier and URF ILEC

“URF Carrier” means a Utility that is a wireline carrier that has full pricing flexibility over all or substantially all of its rates and charges. “URF Carrier” includes any incumbent local exchange carrier that is regulated through the Commission’s uniform regulatory framework, as established in Decision 06-08-030, and as modified from time to time by the Commission; competitive local exchange carriers; and interexchange carriers.

“URF ILEC” means those incumbent local exchange carriers currently granted pricing flexibility through D.06-08-030, and as may be modified from time to time.

1.15 Utility

“Utility” means a public Utility that is a telephone corporation as defined in the Public Utilities Code. Only GRC-LECs and URF Carriers are required to file advice letters under the Industry Rules.

1.16 Withdrawal of Service

“Withdrawal” or “Withdrawal of Service” means discontinuing a service’s availability to all customers, including those customers receiving the service as of the date it is withdrawn.

Industry Rule 2. Submitting Documents for Filing; Telephone Directories

For instructions on filing an advice letter, a document pertaining to an advice letter (e.g., a protest, response, reply, substitute sheet, or supplement), or an information-only filing, go to the Commission’s Internet site (www.cpuc.ca.gov) and look for the Communications Division’s link.

A Utility that issues a telephone directory must submit, concurrent with publication, two copies of each directory to the Telecommunications Advice Letter Coordinator, Communications Division, 505 Van Ness Ave., 3rd Floor, San Francisco, CA 94102-3298. However, a directory is not a tariff and will not be listed in the table of contents of the Utility’s tariffs or given Cal. P.U.C. sheet numbers. A local exchange company must notify public libraries that they will provide without charge, upon request, copies of its current telephone directory to any public library in California and must provide such copies. GRC-LECs may provide only one copy per library.

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Industry Rule 3. Notice to Affected Customers

No later than the date that is 30 days before the advice letter's requested effective date, or on the date that the Utility submits the advice letter to the Telecommunications Advice Letter Coordinator, whichever date is earlier, the Utility must give notice to each affected customer of the advice letter if it requests approval of a Transfer, Withdrawal of Service, or higher rates or charges or more restrictive terms or conditions.

However, no further customer notice under this Industry Rule 3 or General Rule 4.2 is required of a Utility's Compliance Advice Letter that implements a prior Commission order approving the Utility's request for authorization of a Transfer, Withdrawal of Service, or higher rates or charges or more restrictive terms or conditions, unless a further notice is required in the prior Commission order.

Whenever this customer notice is of an advice letter submitted or required to be submitted in Tier 3 (see Industry Rule 7.3), the notice must contain information regarding procedure for protests, as follows: "The proposed [insert Transfer, Withdrawal of Service, or higher rates or charges or more restrictive terms or conditions, as appropriate] is being submitted by Advice Letter _____ [insert advice letter number] for review and possible approval by the California Public Utilities Commission. The advice letter was filed with the Communications Division [insert date of filing]. Anyone may object to the advice letter by sending a written protest to: Telecommunications Advice Letter Coordinator, Communications Division, 505 Van Ness Ave., 3rd Floor, San Francisco, CA 94102-3298. The protest must state specifically the grounds on which it is based. The protest must be received by the Telecommunications Advice Letter Coordinator no later than 20 days after the date that the advice letter was filed. On or before the day that the protest is sent to the Telecommunications Advice Letter Coordinator, the protestant must send a copy of the protest to _____ [insert name and address of person whom the Utility has designated in the advice letter to receive protests]. To obtain information about the Commission's procedures for advice letters and protests, go to the Commission's Internet site (www.cpuc.ca.gov) and look for document links to General Order 96-B."

3.1 Customer Notice of Transfer

If the utility requests approval of a transfer of customers, the notice must identify the transferee, describe the changes (if any) in rates, charges, terms, or conditions of service, state that customers have the right to select another utility, and provide a toll-free customer service telephone number for the purpose of responding to customers' questions.

3.2 Customer Notice of Withdrawal

If a Utility requests approval of a Withdrawal of Service, the notice must also describe the proposed Withdrawal. In the case of a Withdrawal from providing Basic Service, the notice must describe the arrangements the Utility has made to ensure continuity of service to affected customers. If the Utility resells Basic Service (or service element thereof), the arrangements must include notice to affected customers that they may choose another service provider or (if no other service provider is chosen) receive Basic Service from the underlying carrier or Carrier of Last Resort. If the Utility is proposing Withdrawal of Basic Service that it provides using its own facilities, the Utility must arrange for Transfer of its customers to another Utility. (See Industry Rules 3.1, 8.5, 8.6.)

3.3 Customer Notice of Higher Rates, More Restrictive Terms

A notice of higher rates or charges or more restrictive terms or conditions, must state the current and proposed rates, charges, terms, or conditions (as appropriate). If the Utility giving notice is a GRC-LEC, the notice must also state the reasons for the proposed change and the impact of any proposed change on the affected rate or charge, expressed in dollar and percentage terms.

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Industry Rule 4. Contracts and Other Deviations

The Commission may authorize a Utility, on a case-by case basis, to provide service under a contract or other deviation that departs from rates, charges, terms, or conditions offered in the Utility's tariffs. A Utility that does not use tariffs to provide service other than Basic Service may provide such detariffed or non-tariffed service under a contract, without any additional authorization from the Commission.

Industry Rule 5. Detariffed and Non-tariffed Service

An URF Carrier may cancel by advice letter any retail tariff currently in effect except for the following: Basic Service; 911 or e-911 service; a provision, condition, or requirement imposed by the Commission in an enforcement, complaint, or merger proceeding; a provision relating to customer direct access to or choice of an interexchange carrier; a service (such as Resale Service) not within the scope of services for which the Commission granted full pricing flexibility in Decision 06-08-030; or a provision pertaining to a Utility's obligations under state or federal law (such as California public policy surcharges or Carrier of Last Resort obligations), or the Commission's decisions or orders.

The Commission otherwise will consider granting exceptions from the general requirement (see General Rule 8.2.1) that a Utility serve its California customers under its filed tariffs. Such exceptions, allowing the Utility to provide detariffed service, may be granted to a specific Utility or type of Utility, or for specific services offered by the Utility or type of Utility. Industry Rules 5.1 to 5.5, which will be updated as necessary, list the currently authorized exceptions and certain requirements that apply to service not provided under tariff.

5.1 URF Carrier

Subject to Industry Rule 5, an URF Carrier may request to detariff in whole or in part. The URF Carrier seeking to detariff a service not excluded under Industry Rule 5 must submit a Tier 2 advice letter. The advice letter must identify the service that the URF Carrier proposes to detariff and must attest that the service is not one of the services excepted from detariffing under Industry Rule 5.

After the Commission has authorized an URF Carrier to detariff in whole or in part, the URF Carrier may make available to the public New Service offerings on a detariffed basis to the extent consistent with the Commission's authorization. If the URF Carrier seeks to make available to the public on a detariffed basis a New Service that does not fall into categories in which the URF Carrier has already detariffed existing services, the URF Carrier must file an advice letter under Tier 2 that introduces and describes the New Service and simultaneously seeks Detariffing for that New Service. The advice letter shall also attest that the New Service is not one of the services excepted from detariffing under Industry Rule 5. (See General Rules 6.1, 6.2; Industry Rule 2.)

5.2 Publication of Rates, Charges, Terms, and Conditions (URF Carrier)

For any service or bundled offering available to the public but detariffed, the URF Carrier providing the service or bundled offering must at all times and without charge publish, at a site on the Internet, the applicable rates, charges, terms, and conditions for that detariffed service or bundled offering. The URF Carrier must also publish at its Internet site an archive of its canceled rates, charges, terms, and conditions, going back three years or to the date of detariffing, whichever is more recent.

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In maintaining the Internet site required by this Industry Rule, the URF Carrier must comply with the following requirements:

- i) the webpage containing rates, terms, and conditions for detariffed services must be free of marketing and sales information or ads;
- ii) the webpages for rates, terms, and conditions must be accessible without requiring personally identifying information except for area code, NXX, or zip code; and
- iii) the URF Carrier must provide the Commission with a current link to the URF Carrier's webpage for accessing tariffed and detariffed rates.

5.3 Notice to Customers (URF Carrier)

For any service available to the public but not provided under tariff, the URF Carrier providing the service must notify each affected customer of a higher rate or charge, or more restrictive term or condition, or Withdrawal of Service, or Transfer of ownership or customer base. The URF Carrier must give this notice at least 30 days before the date when the change will occur.

The URF Carrier may satisfy a notice requirement in this Industry Rule by one or a combination of the following means: bill inserts; notices printed on bills; or separate notices sent by first-class mail (or by e-mail to a customer who consents to receive bills or notices from the carrier by e-mail). Notice by first-class mail is complete when the document is deposited in the mail, and notice by e-mail is complete upon successful transmission.

5.4 Market Trial; Technical Trial (URF Carrier)

An URF Carrier must submit an information-only filing that describes any Market Trial or Technical Trial. Such an information-only filing will be treated as confidential pursuant to General Rule 9.

5.5 Commercial Mobile Radio Service Provider

A commercial mobile radio service provider may not file tariffs with the Commission but shall make available information showing rates, charges, terms, and conditions of its generally available services.

Industry Rule 6. Advice Letter Contents

An advice letter must include (1) a copy of the notice to affected customers, if such notice is required by Industry Rule 3, and (2) the following statement: "Anyone may object to this advice letter, which was filed on [insert date of filing], by sending a written protest to: Telecommunications Advice Letter Coordinator, Communications Division, 505 Van Ness Ave., 3rd Floor, San Francisco, CA 94102-3298. The protest must state specifically the grounds on which it is based. The protest must be received by the Telecommunications Advice Letter Coordinator no later than 20 days after the date that the advice letter was filed. On or before the day that the protest is sent to the Telecommunications Advice Letter Coordinator, the protestant must send a copy of the protest to _____ [insert name and address of person whom the Utility has designated in the advice letter to receive protests]. To obtain information about the Commission's procedures for advice letters and protests, go to the Commission's Internet site (www.cpuc.ca.gov) and look for document links to General Order 96-B."

Industry Rule 7. Advice Letter Review

A Utility submitting an advice letter must designate the appropriate tier, based on the content of the advice letter. An erroneous designation is not binding on Staff. A Tier 1 or Tier 2 advice letter is

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subject to disposition under General Rule 7.6.1; a Tier 3 advice letter is subject to disposition under General Rule 7.6.2.

**7.1 Matters Appropriate to a Tier 1 Advice Letter
(Effective Pending Disposition)**

By submitting an advice letter in Tier 1, a Utility represents that the advice letter is properly filed in Tier 1, and that the Utility has complied with the applicable customer notice requirements, as set forth in Industry Rules 3 to 3.3 and as referenced in this Industry Rule 7.1. Pursuant to General Rule 4.2, the Utility must document its compliance with applicable customer notice requirements; if an advice letter accepted for filing is found not to have been noticed in compliance with these requirements, Staff will reject the advice letter without prejudice. The following matters may be filed under Tier 1:

- (1) An editorial change to the text of a tariff that does not affect a rate, charge, term, or condition under the tariff.
- (2) A change to the name of a product or service.
- (3) A Compliance Advice Letter, unless the Commission order directing the submission of the advice letter specifies another tier.
- (4) An exchange area boundary realignment that does not result in an increase to a rate or charge or in a more restrictive term or condition.
- (5) A change by an URF Carrier to a rate, charge, term, or condition of a retail service (except for ILEC Basic Service rates). Changes to terms and conditions for Basic Service that do not conflict with law or the Commission's decisions or orders are permitted.
- (6) A change by an URF Carrier to (i) a Resale Service rate or charge, if the change has been noticed in compliance with Industry Rules 3 and 3.3 (as applicable), and such rate or charge is linked to a tariffed service rate or charge by a discount adopted by the Commission, or (ii) a Resale Service term or condition, if the change has been noticed in compliance with Industry Rules 3 and 3.3 (as applicable), and such term or condition incorporates a term or condition approved by the Commission for the corresponding URF Carrier Service.
- (7) A New Service offering of an URF Carrier where the New Service has full pricing flexibility. (See Industry Rule 8.3.)
- (8) A contract for a tariffed service by an URF Carrier.
- (9) A Withdrawal or Freezing of Service by an URF Carrier (not including a Withdrawal or Freezing subject to Industry Rule 7.4(1). In the case of a Withdrawal, it must have been noticed in compliance with Industry Rules 3 and 3.2.
- (10) A new Promotional Offering for a tariffed service, or continuation of a tariffed Promotional Offering, by an URF Carrier.
- (11) A new Promotional Offering, or continuation of a Promotional Offering, by a GRC-LEC for which there is a Commission-approved Promotional Platform. (See Industry Rule 7.3(6).)
- (12) Emergency Service provided by an URF Carrier or GRC-LEC pursuant to General Rule 8.2.3.

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- (13) Price changes to special access service that are permitted to be filed in Tier 1, as ordered by the Commission.

**7.2 Matters Appropriate to a Tier 2 Advice Letter
(Effective After Staff Approval)**

By submitting an advice letter in Tier 2, a Utility represents that the advice letter is properly filed in Tier 2, and that the Utility has complied with the applicable customer notice requirements, as set forth in Industry Rules 3 to 3.3 and as referenced in this Industry Rule 7.2. Pursuant to General Rule 4.2, the Utility must document its compliance with applicable customer notice requirements; if an advice letter accepted for filing is found not to have been noticed in compliance with these requirements, Staff will reject the advice letter without prejudice. If a Tier 2 advice letter has not been suspended by staff by the end of the initial 30-day review period, the Tier 2 advice letter is deemed approved. The following matters must be filed under Tier 2:

- (1) A New Service of a GRC-LEC. (See Industry Rule 8.3.)
- (2) A contract for a tariffed service by a GRC-LEC. (See Industry Rules 8.2.3, 8.2.4.)
- (3) Detariffing by an URF Carrier. (See Industry Rules 5, 5.1.)
- (4) A request to Transfer by a carrier other than a GRC-LEC or an URF Carrier that is an incumbent local exchange carrier. (See Industry Rule 8.6.2.)
- (5) An advice letter otherwise appropriate to Tier 1 but for which the Utility submitting the advice letter requests review and disposition under Tier 2.
- (6) Price changes to special access service that are permitted to be filed in Tier 2, as ordered by the Commission.

**7.3 Matters Appropriate to a Tier 3 Advice Letter
(Effective After Commission Approval)**

By submitting an advice letter in Tier 3, a Utility represents that the advice letter is properly filed in Tier 3, and that the Utility has complied with the applicable customer notice requirements, as set forth in Industry Rules 3 to 3.3 and as referenced in this Industry Rule 7.3. Pursuant to General Rule 4.2, the Utility must document its compliance with applicable customer notice requirements; if an advice letter accepted for filing is found not to have been noticed in compliance with these requirements, Staff will reject the advice letter without prejudice. The following matters must be filed under Tier 3:

- (1) A matter appropriate to an advice letter but not subject to review and disposition under Tier 1 or Tier 2. (See General Rule 5.1.)
- (2) A negotiated interconnection agreement pursuant to Section 252 of the Telecommunications Act of 1996 (47 USC § 252). (See Industry Rule 8.1.)
- (3) An exchange area boundary realignment by a GRC-LEC, which realignment results in an increase to a rate or charge or in a reduction in service to existing customers, and has been noticed in compliance with Industry Rules 3 and 3.3 (as applicable).
- (4) A change by a GRC-LEC to a rate, charge, term, or condition, which change has been noticed in compliance with Industry Rules 3 and 3.3 (as applicable).

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- (5) An update by a GRC-LEC regarding its allocation from the high cost fund.
- (6) A Promotional Platform of a GRC-LEC.
- (7) Except where review in a formal proceeding is required by Industry Rule 7.4(1), Withdrawal or Freezing of Service by a GRC-LEC. In the case of a Withdrawal, it must have been noticed in compliance with Industry Rules 3 and 3.2.

7.4 Matters Requiring Review in a Formal Proceeding

Staff will reject without prejudice an advice letter that requests relief or raises issues requiring an evidentiary hearing or otherwise requiring review in an application, petition for modification, or other formal proceeding. (See General Rules 5.2, 5.3.) Matters requiring such review include, but are not limited to:

- (1) Withdrawal or Freezing of Resale Service or of Basic Service (or any service element thereof). In the case of a Withdrawal, it must have been noticed in compliance with Industry Rules 3 and 3.2, and must meet all applicable requirements of Industry Rule 8.5.
- (2) A request for operating authority or for authority to expand service area.
- (3) A request to Transfer by a GRC-LEC or an URF Carrier that is an incumbent local exchange carrier where the Transfer is subject to Commission review pursuant to Public Utilities Code Section 854.
- (4) A request by an URF Carrier to modify or cancel a provision, condition, or requirement imposed by the Commission in an enforcement, complaint, or merger proceeding. (See Industry Rule 5.)

Industry Rule 8. Procedures for Specific Types of Advice Letters, Information-only Filings, and Formal Proceedings

8.1 Negotiated Interconnection Agreements

Promptly upon execution of an interconnection agreement arrived at through negotiation pursuant to Section 252 of the Telecommunications Act of 1996 (47 USC § 252), the agreement must be submitted by advice letter for Commission approval. The advice letter will be subject to review and disposition within the timeframes provided for such advice letters by Resolution ALJ-181 (October 5, 2000), as may be modified by the Commission from time to time, and in conformity with federal law.

8.2 Contracts for Tariffed Services

Contracts for tariffed services must be submitted to the Commission under this Industry Rule. Except for negotiated interconnection agreements, a contract that involves only detariffed or non-tariffed services is not subject to Commission approval and is not to be submitted for filing.

8.2.1 Deadline for Submittal; Effective Date

Within 15 business days after the execution of a contract for a tariffed service, the contract must be submitted by advice letter for Commission approval. A Utility that violates the deadline for submittal is liable to such sanctions as the Commission may impose, including but not limited to the penalties set forth in Decision 91-07-010 and the Public Utilities Code, as appropriate. Violation of the deadline does not, in itself, invalidate a contract. In the case of a contract properly submitted for review and disposition by Tier 1 advice letter, the contract may be made effective on the date of execution.

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8.2.2 Availability of Contract Rates

The rate or charge under a contract then in effect must be made available to any similarly situated customer that is willing to enter into a contract with the same terms and conditions of service.

8.2.3 Required Clauses (GRC-LEC)

A contract by a GRC-LEC for a tariffed service must contain the following clauses: “This contract at all times is subject to such modifications as the California Public Utilities Commission may direct from time to time in the exercise of its jurisdiction. This contract does not become effective unless and until approved by the California Public Utilities Commission.”

8.2.4 Cost Justification (GRC-LEC)

An advice letter by a GRC-LEC requesting approval of a contract must show that each rate or charge set in the contract is at or above cost. Cost data provided in support of the contract may be submitted under seal together with a request for confidential treatment. (See General Rule 9.)

8.3 New Service

An advice letter requesting approval of a New Service must attest that the proposed service would:

- (1) comply with all applicable provisions of the Public Utilities Code, including without limitation Sections 2891 to 2894.10, and with the applicable consumer protection rules adopted by the Commission;
- (2) not result in a degradation in quality of other service provided by the Utility submitting the advice letter; and
- (3) not be activated for a particular customer unless affirmatively requested by the customer.

An advice letter by a GRC-LEC requesting approval of a New Service must show that the rate or charge set for the New Service is at or above cost. Cost data provided in support of the New Service may be submitted under seal together with a request for confidential treatment. (See General Rule 9.)

8.4 Change to Tariffed Rate, Charge, Term, or Condition

An advice letter requesting approval of a change to a tariffed rate, charge, term, or condition, if the change is required to be submitted for review and disposition by Tier 3 advice letter, must demonstrate that the rate, charge, term, or condition, as proposed to be changed, would be just and reasonable. If Staff determines that a change requested by an advice letter to a rate, charge, term, or condition requires a hearing or otherwise requires review in a formal proceeding, Staff will reject the advice letter without prejudice. (See General Rule 5.3.)

8.5 Withdrawing Basic Service

Prior to a Utility’s Withdrawal, in whole or part, from offering Basic Service (or any service element thereof) within its service area, the Utility must file an application, as appropriate (see Industry Rule 7.4(1)), requesting the Commission’s authorization. The application must conform to the Commission’s Mass Migration Guidelines, as specified in Decision 06-10-021 and as modified from time to time by the Commission. The request must state the date and method by which the Utility notified affected customers of the proposed Withdrawal (see Industry Rules 3 and 3.2), and must describe the arrangements the Utility has made to ensure continuity of service to affected customers. If the Utility resells Basic Service (or any service element thereof), the arrangements must include notice to affected customers that they may choose another service provider or (if no other service provider is chosen)

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receive Basic Service from the underlying carrier or Carrier of Last Resort. If the Utility uses its own facilities to provide Basic Service, the arrangements must include notice to affected customers of the Utility's plans for Transfer of the customers to another carrier. (See Industry Rules 3.1, 8.6.)

8.6 Transfer

8.6.1 Transfer of GRC-LEC or URF ILEC

Commission approval for the Transfer of a GRC-LEC, or an URF Carrier that is an incumbent local exchange carrier, must be requested by application jointly submitted by the transferor and proposed transferee. See Rule 3.6 of the Commission's Rules of Practice and Procedure.

8.6.2 Transfer of Interexchange or Competitive Local Carrier

Commission approval for the Transfer of an interexchange carrier or competitive local carrier may be requested by advice letter submitted by the proposed transferee. If the proposed transferee does not have authority from the Commission to operate as a Utility, the transferee must either (1) register to operate as an interexchange carrier (using the registration form available at the Commission's Internet site), or (2) file an application to operate as a competitive local carrier and in the application request approval of the Transfer. The application must include a financial statement, which may be submitted under seal together with a request for confidential treatment (see General Rule 9), demonstrating that the transferee has sufficient assets to operate through the transition period.

8.6.3 Transfer of Commercial Mobile Radio Service Provider

The transferee of a commercial mobile radio service provider must submit an information-only filing setting forth changes in the provider's registration information.

8.7 Promotional Offering

A GRC-LEC may not submit an advice letter requesting approval of a Promotional Offering unless and until the Utility has received approval for its Promotional Platform.

Industry Rule 9. Notification of DBAs

If a Utility does business under a name other than the name under which it was granted operating authority by the Commission ("doing business as" or "DBA"), the Utility must list, as part of its preliminary statement (see General Rule 8.5.3), each name under which the Utility does business. The Utility must update this list, as necessary, by submitting an advice letter (see Industry Rule 7.1(1)). If a detariffed Utility does business under a name other than the name under which it was granted operating authority by the Commission, the Utility must inform the Commission by submitting an information-only filing with a list of all names under which the Utility does business. The detariffed Utility must update this list, as necessary, by information-only filing.

Industry Rule 10- Service Lists for Advice Letter Filings

1. When filing any Advice Letter, the utility shall serve it on the following persons:
 - i) Any Utility or person requesting such notification from the specific utility filing the advice letter, pursuant to General Rule 4.3 (see also General rule 7.2).
 - ii) Other entities or persons as directed by the Director of the Communications Division for particular Advice Letters.
 - iii) As required by paragraph 2 of this Industry Rule.

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2. The Commission will host service lists on the Commission's public web site by means of which persons or entities can request to be served with particular categories of advice letters filed by all Telecommunication Carriers. Every carrier filing any advice letter shall determine which categories from the following lists best apply to the advice letter being filed, and shall serve that advice letter on all parties on the applicable service lists. The service lists will require the name of the entity or person to be served and their e-mail address for service. Persons or entities wishing to be included on a particular service list may sign up on the web site. Instructions for removing or modifying an entry already on the service list will be provided on the web site. It is the responsibility of the person or entity listed on the service list to ensure that each entry is correct. The categories are:

- i) Changes in rates, terms and conditions of service, or initiation of new service.
- ii) Eligible Telecommunications Carrier designation requests.
- iii) General Rate Case filings.
- iv) Facility construction filings.
- v) Negotiated Inter Connection Agreements pursuant to Industry Rule 8.1, and Contracts for Tariffed Services pursuant to Industry Rule 8.2.
- vi) Any advice letter not fitting within the preceding categories.

EXHIBIT H

Resolution T-17302
CD/RS2/LBS

Date of Issuance: June 14, 2011

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Policy Analysis Branch**

**RESOLUTION T-17302
June 9, 2011**

R E S O L U T I O N

Resolution T-17302 Approving Verizon California Inc. Advice Letter No. 12535

S U M M A R Y

This Resolution approves, with conditions, Verizon California Inc. (Verizon) Advice Letter No. 12535 (Advice Letter), filed October 22, 2010, proposing to change the way Verizon provides residential white pages directory listings to customers. Verizon proposes to end automatic delivery of white page directories containing residential listings and instead offer customers the option of a printed white pages directory or electronic white pages listings on a CD-ROM, as well as online white pages listings. Verizon will continue automatic delivery of directories containing white page business listings, government listings, yellow pages and consumer guides.

B A C K G R O U N D

On October 22, 2010, Verizon filed a Tier 3 Advice Letter seeking to change the way it provides residential telephone listings to customers. The Communications Division determined that the Advice Letter was a matter appropriate to an advice letter but not subject to review and disposition under Tier 1 or Tier 2 and therefore the Advice Letter was properly classified as a Tier 3 Advice Letter, requiring a resolution, public comments and Commission approval.¹

On November 12, 2010, the Communications Division requested additional information from Verizon about how it intended to implement the proposed change. Verizon's answers, filed November 22, 2010, are included in the discussion below.

¹ GO 96B, Telecommunications Industry Rule 7.3 (1) and General Rule 5.1.

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On November 22, 2010, due to the need for additional time to prepare a Resolution for Commission consideration, the Communications Division suspended the Advice Letter until March 22, 2011.

Currently, Verizon automatically delivers annually to each customer a printed white pages directory. The directories list all residential customers with published numbers and include business and government white pages and consumer guide pages, and may include yellow pages. The directories are published and delivered for Verizon by SuperMedia LLC (SuperMedia).²

Upon approval of the Advice Letter, Verizon would cease to provide residential white pages listings in most of its directories in California.³ Instead, Verizon would offer customers the option to request a printed or CD-ROM directory of residential listings to be sent by mail. In addition, all white pages listings will be accessible via an online directory at www.verizon.com/whitepages. All of the three options would be offered free. Verizon will continue to automatically deliver to customers printed directories containing white page business listings, government listings, yellow pages and required information and consumer guides, such as information pages with local calling areas.

In order to continue to receive a printed white page directory of residential listings, a customer would have to “opt-in” by calling SuperMedia via 1-800-888-8448, a toll free number, and request continued delivery of a printed directory of white page residential listings. Verizon states that customer would only have to “opt in” once. Once a customer has requested continued delivery of a printed directory of the residential white page listings, the customer will be placed on standing order to receive a printed copy every year.

The SuperMedia 800 number will be answered by an automated system, but customers can also zero out” to an operator.⁴ Verizon states that the automated directory ordering system will be available 24 hours per day, seven days per week, and live operators will be available Monday through Friday, 8:00 a.m. to 6:30 p.m. Eastern Standard Time. Upon a customer’s initial request for delivery of a printed residential white page directory, SuperMedia will mail the requested printed directory (or CD-ROM, if requested) to the customer. The customer would receive the printed directory or CD-ROM within 14-21 days of requesting it. A customer who requests directory

² SuperMedia is an online advertising, direct mail, and yellow pages publishing company spun off from Verizon in 2006, the successor to Idearc Media LLC, formerly known as Verizon New Media Services Inc.

³ Where Verizon distributes white and yellow pages directories as separate volumes, it would cease automatic distribution of the white pages volume.

⁴ See Attachment F for directory number script.

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delivery would be placed on standing order to receive it every year at that customer address; the customer would not have to renew the request every year.

The Communications Division asked Verizon how SuperMedia would assist customers who request residential white pages directories if there are no printed directories left. Verizon responded that SuperMedia is planning to print quantities in excess of what is expected to be required. If quantities run out, SuperMedia will print more in most circumstances. If they run out shortly before the next book will be published, the customer may be asked to wait for that next directory.

Verizon states that SuperMedia does not sell voice, Internet access or video services, and a customer calling to request delivery of a printed residential white pages directory would not be subject to any statements or questions about other Verizon services.

It has been standard industry practice to automatically deliver printed white pages directories to customers; in 2009, California carriers delivered more than 26,372,000 white pages, and Verizon delivered more than 6,160,000 white pages, to customers. According to Verizon, SuperMedia does not have accurate residential/business customer breakdowns in their directory distribution database, but they expect approximately 48 directories, with an estimated printing of 5.3 million copies, to be affected by this change in 2011.

There is currently an opt-out provision for directory delivery; Verizon reports that at the end of 2010, SuperMedia had listed 4,447 opt-out requests from customers in California.

Upon approval of the Advice Letter, Verizon states it will update its Product Guide to notify customers that residential white page directory listings will be provided free of charge upon request in either printed form or on CD-ROM, as well as online. Verizon will continue delivery of printed directories that include the business and government white pages and the consumer guide. In addition, Verizon will issue the following communications in order to maximize customer notice:

- Verizon press release – one time (Example draft copy provided in Attachment A);
- Verizon quarterly bill message in first year (Example draft copy provided in Attachment B);
- Permanent notice on cover and table of contents page of the yellow pages directories (Example draft copy provided in Attachment C and Attachment D);

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- SuperMedia notice and explanation of program to be placed in the front pages of the first affected yellow page directories (Example draft copy provided in Attachment E); and
- SuperMedia webpage notice – to remain indefinitely.

In order to notify competitive local exchange carriers (CLECs) in their area of the change, Verizon states it will issue an Industry Letter to all CLECs operating within the Verizon California region. Competitive local exchange carrier customers will be able to request delivery of a printed residential white pages directory or CD-ROM by calling 1-800-888-8448, the same way Verizon customers can request a directory.

Verizon affirms that the proposed change will not increase any rate or charge, cause the withdrawal of service, or conflict with other schedules or rules.

In support of its proposal, Verizon states that residential customers now use printed white page directories far less than in the past, due primarily to the availability of alternative ways of obtaining telephone numbers. It states that customers have been relying less on printed residential white page directories and more on online directories, the directories in wireless and wireline devices, and specialized directories provided by employers, schools, places of worship and other organizations. Verizon cites a SuperMedia-sponsored Gallup survey that reported that the overall percentage of households using stand-alone residential white pages dropped from 25% to 11% from 2005 to 2008. It also claims that in one state (Florida) that has allowed AT&T to provide residential white pages only upon customer request, only approximately 2% of customers subsequently requested a copy of the directory.

Verizon also avers that the proposed change “would have a material, positive effect” on the environment. Verizon estimates that this change will eliminate approximately 1,870 tons of paper per year from California’s waste and recycling streams and that the estimated CO₂ reduction from adopting this white page directory distribution practice is 7,293 tons of CO₂ or 3.74 million pounds of 100% post-consumer recycled paper. Verizon further states that:

[T]he State of California has already recognized the negative impact printed directories have on the environment, as evidenced by a memorandum issued December 15, 2007 by the California Department of

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General Services (DGS) to all of its employees in Sacramento.⁵ In its memorandum, DGS notes that up to 80 percent of the department's old phone books went into a landfill. More than one-fifth of the waste sent to California municipal landfills is paper which, when decomposed, breaks down and produces methane, a powerful climate-changing gas. DGS determined that it would give high priority to reducing their use of paper and will, where possible, maximize the use of online, electronic versions of phone books.

PROTESTS

Cox Communications/CALTEL Protest

On November 11, 2010, Cox California Telcom, LLC, dba Cox Communications (Cox) and the California Association of Competitive Telecommunications Companies (CALTEL) filed a protest to the Advice Letter on the grounds that it contained material errors or omissions. Cox and CALTEL protested that the Advice Letter did not address how Verizon would comply with requirements to provide white pages directories to customers of competitive carriers under Decision (D.) 96-02-072 and under their interconnection agreements. Verizon responded on November 22, 2010, explaining that it fully intended to comply with all requirements under current regulatory and contractual obligations, that CLEC customers would be given the same three options for access to the residential white pages listings as Verizon customers and that no operations support system (OSS) changes would be required. Verizon also said it would be sending an industry letter with an outline of the residential white pages change to all CLECs in the Verizon California region. On December 10, 2010, Cox and CALTEL subsequently withdrew the protest.

TURN Protest

On December 22, 2010, The Utility Reform Network (TURN) protested the Advice Letter on several grounds. TURN asserts that Verizon's proposed change represents a major change to the definition of basic service and therefore should not be approved through the Advice Letter process. It then argues that Verizon failed to provide evidence that its California customers no longer want automatic directory delivery and cites its March 2008 survey of 900 registered California voters, which found that landlines are the primary phone number for most Californians.⁶ TURN notes that many customers in Verizon's territory would not have access to an online

⁵ "The Department of General Services Is Working Green Maximizing The Use Of Online Phone Directories, issued December 15, 2007 by DGS Director Ron Joseph, <http://www.workinggreen.dgs.ca.gov/Reuse/OnlinePhoneBook.htm>

⁶ <http://turn.org/article.php?id=711>

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directory at home and that Verizon's planned notices are inadequate. It recommends that, if the Commission approves the proposal, it should also impose conditions similar to those imposed by the New Jersey and Pennsylvania state commissions. Verizon filed a Reply to TURN's protest on January 5, 2011, in which it stated that the Commission should disregard TURN's protest because it was filed 40 days late and TURN failed to provide a valid reason justifying the late filing.

General Order (G.O.) 96-B General Rule 7.4.4. grants the reviewing Industry Division the right to accept and consider a late-filed protest or response. When TURN filed its late protest on December 22, 2010, the Communications Division staff had already suspended the Advice Letter until March 22, 2011. Therefore, Verizon and other parties had adequate time to respond to the protest. In light of the fact that the Advice Letter proposal concerns an element of basic service and, if implemented, would require action on the part of all Verizon's customers, we find that staff consideration of the late protest was justified and proper.

TURN's Protest is discussed below.

DISCUSSION

TURN protests this Advice Letter on the grounds "that it raises significant issues concerning the continued provision of a key element of basic telephone service, as defined in D. 96-10-066, to customers" and an advice letter is not the proper vehicle in which to address this change. TURN first argues that the advice letter process is used to delegate "ministerial" powers to staff and that the Commission needs significant input from interested stakeholders to make changes to long-standing policies or rules. TURN states that "it would not oppose the provision of white pages directories along the lines of what Verizon is proposing." However, TURN states that "the Commission should consider this proposal as an application or through another procedural vehicle requiring a full Commission decision." TURN asserts that Verizon is proposing "a major change for customers," noting that "automatic delivery of white and yellow pages directories has been a staple of American life for decades." TURN states that "the requirement to provide a free white pages directory is an element of basic telephone service, pursuant to D.96-10-066. Verizon is proposing to radically change how this aspect of basic telephone service is provided. Thus, the proposal amounts to a change in the provision of basic service. ...A major change to the definition of basic service, such that Verizon is proposing, should not be relegated to an Advice Letter and resolution process."

Verizon replies that TURN errs in asserting that Commission approval by formal application is required before Verizon may implement demand-based delivery of residential white pages listings. Verizon states that "TURN also ignores the criteria delineated in General Order 96-B describing the types of matters requiring review in a

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formal proceeding—none of which apply here. Specifically, Verizon does not seek to modify a prior Commission decision since ... D.96-10-066 requires only that basic service include a free white pages directory. This change does not require an evidentiary hearing, and TURN does not seek one. Nor does Verizon seek to challenge a prior Commission resolution on the matter. On the contrary, the purpose of the advice letter is merely to confirm Verizon's preexisting authority to implement demand-based white pages delivery upon due notice to customers; and the Telecommunications Industry Rules expressly permit URF carriers to change its terms and conditions of service by advice letter."

In any event, Verizon states that the issue is moot "as Verizon filed a Tier 3 advice letter requesting approval of this change, for which staff must prepare a 'recommended disposition' that is subsequently approved or rejected as a resolution by the full Commission.... Accordingly, Verizon's Tier 3 advice letter request is valid and should be approved."

In 1996, this Commission adopted rules implementing The Moore Universal Telephone Service Act of 1987.⁷ As part of that proceeding, we held that carriers providing local exchange residential telephone service must provide a free white pages directory to their customers as part of basic telephone service, stating: "Telephone customers have become accustomed to receiving a free white pages directory and yellow pages directory every year. Free directories minimize the number of calls made to directory assistance, and promote the wide distribution of yellow pages advertising. We shall add the free white pages directory to the definition of basic service."⁸ We also require ILECs to include in their white pages directories, upon a CLEC's request, the telephone listings of subscribers of CLECs operating in the area, and to provide free white pages directories to CLEC customers.⁹

The Advice Letter process allows the Communications Division to determine whether an Advice Letter requires Commission approval through the classification of the Advice Letter into the appropriate Tier. Communications Division staff determined that Verizon's Advice Letter proposes a change to the historical way that Verizon and other incumbent local exchange carriers have provided to customers a required element of basic local exchange service. No longer would Verizon automatically deliver white page directories of residential listings to subscribers. Instead a subscriber would have

⁷ D.96-10-066, Appendix B.

⁸ *Id.* at p. 13.

⁹ D. 96-10-072.

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to take the pro-active step of making a one-time election to continue to receive automatic annual delivery of these printed white pages. In discussions with Verizon prior to the filing of its Advice Letter, Communications Division staff determined that Verizon's proposal required a Tier 3 advice letter pursuant to G.O. 96-B Telecommunications Industry Rule 7.3 (1) requiring a formal Resolution and Commission approval, as it was "A matter appropriate to an advice letter but not subject to review and disposition under Tier 1 or Tier 2. "

The approval process for this Resolution requires public notice and allows for public comment, thus providing a platform for significant input from any interested parties. Although Verizon believes that Commission approval of its proposed change is not required, Verizon agreed to file a Tier 3 Advice Letter.

We disagree with TURN that the Verizon proposal is "radically" changing how an aspect of basic service is provided and therefore requires a formal proceeding per G.O. 96-B Telecommunications Industry Rule 7.4.(4).¹⁰ Under Verizon's proposal, after making a one-time election to continue to receive a printed directory of white pages residential listings, SuperMedia, on behalf of Verizon, will thereafter automatically deliver annually a printed copy of a directory of white page residential listings to the customer.

The language in D. 96-10-066, our Decision adopting the elements of basic telephone service, did not specify that carriers are required to provide a paper copy of the directory nor did it limit the directory to a paper copy. Our purpose in establishing a white pages directory requirement was to ensure that customers would receive a free paper copy every year. Verizon's proposal would fulfill that purpose. It would, however, mark a change to a more restrictive term or condition of basic telephone service because directory delivery would not be automatic; Verizon customers would have to make a one-time specific request in order to receive the paper copy.

It is reasonable to assume that in 1996, this Commission intended for carriers to deliver a paper copy of white pages directories to customers annually at no charge, in conformance with the industry practice at the time. However, since 1996 there have been dramatic technical and market changes in the telecommunications industry. Today, telephone customers are able to access residential telephone numbers through

¹⁰ See 7.4 (4) Matters Requiring Review in a Formal Proceeding. Staff will reject without prejudice an advice letter that requests relief or raises issues requiring an evidentiary hearing or otherwise requiring review in an application, petition for modification, or other formal proceeding. (See General Rules 5.2.) Matters requiring such review include, but are not limited to: ... (4) A request by an URF Carrier to modify or cancel a provision, condition, or requirement imposed by the Commission in an enforcement, complaint, or merger proceeding.

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other means, including cell phones and other mobile devices, online directories, and landline caller ID systems, which can store frequently used numbers. Accordingly, we note that neither statute nor Commission precedent mandates delivery *specifically* of a free hard copy directory, and, further, that the statutory and decisional language is susceptible to the type of delivery change Verizon has proposed here.

The Communications Division staff recently reported that, since peaking in 2001, the total number of wireline end-user access lines has steadily decreased in California from 24.77 million in 2001 to 17.7 million in 2009, mirroring national trends.¹¹ The staff found that:

The number of circuit-switched access lines in California and across the the nation is declining. This is largely due to the new technologies, especially mobile wireless but also VoIP, which are competing directly with wireline voice service.... Although the introduction of local exchange competition did spur a small increase in wireline subscribers in the mid-1990s, this temporary gain quickly gave way to an accelerating loss of wireline subscribers.¹²

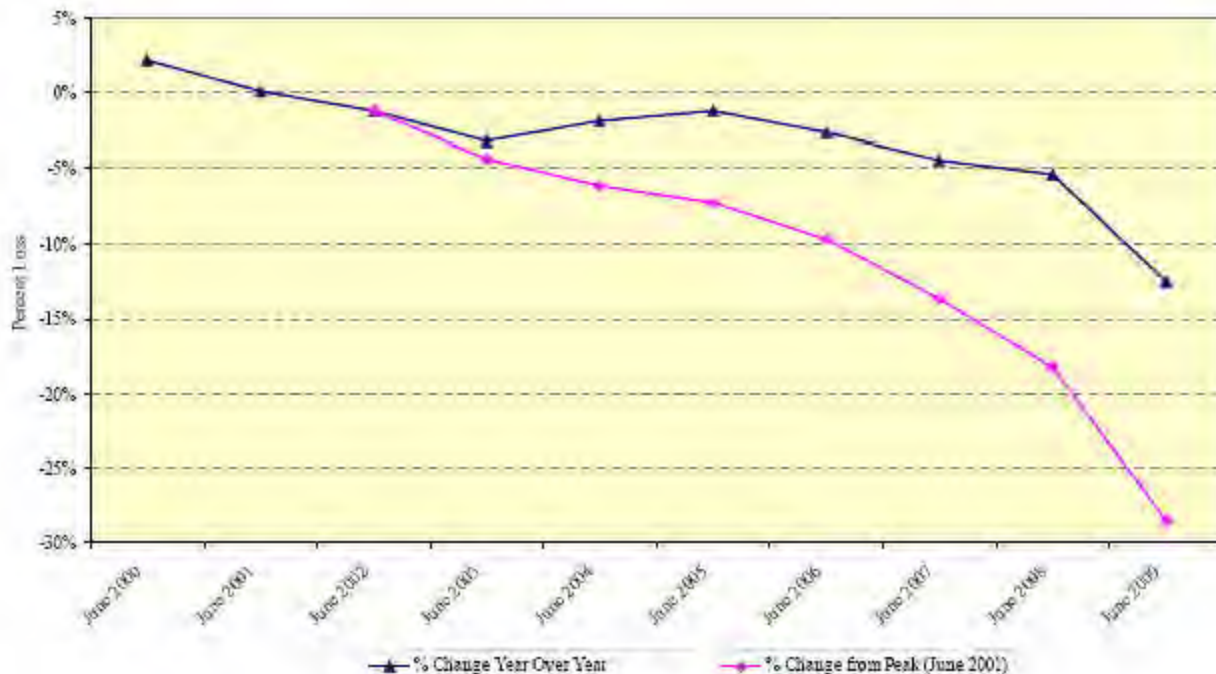
The chart below from the staff report illustrates the trend in wireline subscribership:

¹¹ Residential Telephone Subscribership and Universal Service, CPUC Report to the California Legislature, December 2010, p. iii. This report is submitted to comply with the Moore Universal Telephone Service Act.

¹² *Id.* p.5.

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Chart 6. California Percentage Change in End User LEC Wireline Subscribers



Source: FCC: *Telephone Subscribership in the United States*, August 2010¹⁷

Today, there are far more wireless subscribers than circuit-switched access line subscribers in California. In December 1999, the Federal Communications Commission (FCC) reported 8.54 million wireless subscribers in California. By June 2009, that number had grown to 32.25 million. This is a 10-year increase of 277%, faster than the national rate of mobile wireless adoption during the same period. (233%).¹³

Verizon reports that, due to privacy concerns, particularly in California, approximately 40% of residential telephone numbers are unpublished or unlisted, thus reducing the scope and usefulness of residential white page listings. In addition, they state that the rapidly growing number of wireless-only customers and the lack of a ready available database of wireless numbers has led to an increasingly large percentage of the population whose telephone number is not automatically listed anywhere.¹⁴

¹³ *Id.* p.10.

¹⁴ See Telecommunications Industry Association 2010 Policy Playbook, at http://www.tiaonline.org/gov_affairs/docs/2010_playbook.pdf

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Due to the increase in wireless mobile phone usage and increases in Internet subscriptions since 1996,¹⁵ customer reliance on printed telephone directories has been reduced. In light of these dramatic changes in telecommunications technologies and the resulting changes in customer needs and expectations, we find that it is reasonable to reinterpret the directory delivery rule for today's circumstances.

TURN further argues that the Commission should not approve Verizon's proposal to eliminate automatic delivery of white page directories of residential listings without considering evidence showing how Verizon's California customers use white page listings. TURN asserts that Verizon provided no evidence demonstrating changes in California customers' use of white pages listings. TURN states that [i]n contrast [to the Gallup survey referenced in Verizon's Advice Letter filing], a survey of Californians' use of basic telephone service conducted (at TURN's request) by Lake Research found that 75% view receiving the free white pages phone book as "important." TURN states that its survey showed "29% of California telephone customers use the white pages directory to find residential listings."¹⁶ In its reply to the protest, Verizon refers to a Centers for Disease Control study that found that more than one fourth of households nationwide (26.6%) are wireless-only,¹⁷ and cites their own experience of "declining usage of DA" [directory assistance], although it provides no numbers showing declining usage.

We note that Verizon did not provide to the Commission a copy of the Gallup survey report it relies on, showing the survey methodology, nor did it provide information as to where the survey report could be found. Nor are the Gallup survey or the Center for Disease Control study cited by Verizon specific to California. Furthermore, we note that both the Gallup survey and the Lake Research survey that TURN relies on to demonstrate a continuing need for automatic directory delivery, were conducted in 2008. Given that the telecommunications industry and marketplace have changed so dramatically so fast, we do not find any of these surveys to be persuasive as to the situation in California today. Although the Commission does not have information before it to adequately assess the level of use of white page directory residential listings by subscribers in Verizon's California service areas, we do not find this lack of information to be critical to our decision today. As noted above, Verizon will continue to automatically deliver annually printed copies of these listings to any subscriber who makes a one-time election to continue such delivery. Verizon will also provide two new ways its customers can access this information – via a compact disc delivered annually or via an Internet website. With conditions in place to gauge the

¹⁵ See CPUC DIVCA Report 2010 and the Residential Telephone Subscribership and Universal Service, CPUC Report to the California Legislature, December 2010

¹⁶ Lake Research Partners, "Basic Phone Service Survey Findings," March 2008. Survey commissioned by The Utility Reform Network (TURN), p. 7, 11. <http://turn.org/article.php?id=711>

¹⁷ <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201012.pdf>

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effect on customers of the change, the Commission can ensure that any necessary adjustments to Verizon's delivery of this basic service element are subsequently considered by this Commission.

TURN also protests that many Verizon customers do not have Internet connections and that the level of Internet adoption varies by age, income, and ethnic group. We agree with TURN that, "If Verizon's notice and outreach efforts are insufficient, these customers would be without updated directory information."

We find that Verizon's proposed notices, with modifications, are adequate to properly inform customers of the change and of how to request a printed directory. We believe additional conditions must be met in order to find that Verizon's proposal to update how these listings are provided to customers in light of technological changes in the telecommunications industry just and reasonable. We therefore impose customer notice and reporting requirements in addition to the standard notices Verizon promised in the Advice Letter and shown in Attachments A-E. We discuss these conditions and requirements below.

CONDITIONS

TURN points out that in other states that have approved similar proposals "such approvals were granted subject to important conditions, many of which are notably absent from Verizon's California proposal. States such as Pennsylvania, New Jersey, Florida, Georgia, Oklahoma, Texas, Ohio and Delaware have imposed such conditions." TURN also notes that when the New Jersey Board of Public Utilities (NJBPU) permitted Verizon to proceed with its plan, it did so with the following observations:

"While the Board agrees with the Company that technological advances have dramatically changed how printed media is delivered and consumed, nevertheless, it is noted that not every home has access to a computer and the internet. The Board is also concerned that the Company's proposal to allow customers to opt-in, as opposed to opt-out, may initially create some confusion among consumers."¹⁸

Accordingly, the NJ Board required Verizon to provide extensive public outreach and enhanced notification requirements, and, in addition, the Board took the prudent step of requiring Verizon to compile data to provide the regulators with information

¹⁸ In the Matter of Verizon New Jersey's Petition for Waiver of New Jersey Administrative Code (N.J.A.C.) Regulations 14:10-1A.5 Subsections (a) and (b) Pertaining to the Publishing and Distribution of Telephone Directories, Docket No. TO 10040255, Order of Approval (dated September 22, 2010), p. 2. <http://www.state.nj.us/bpu/pdf/boardorders/2010/9-16-10-4A.pdf>

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about customer use of the white pages and the impact of the change on the volume of directory assistance calls.

We note that other state commissions have approved automatic directory delivery waiver requests from AT&T and Verizon, and have imposed additional conditions and reporting requirements as well.¹⁹ To our knowledge, at least fifteen state commissions have granted or are considering granting waivers of mandatory distribution of telephone directories.²⁰ However, we are not bound by their actions and will tailor our orders to the needs and expectations of California customers.

Customer Notice Requirements

Advocates of discontinuing automatic directory delivery of white page residential listings have noted that such a change could achieve important environmental benefits for the people of California. Expected benefits might include a reduced financial burden on local government budgets for tons of unwanted directory waste removal and disposal; a reduction in the volume of directories filling up landfills; reduced environmental costs of directory manufacture, distribution, and delivery; and lessening the inconvenience and expense required to dispose of unwanted directories.²¹

At the same time, Verizon's proposal would represent a change in the longstanding method of providing an element of basic telephone service to a more restrictive method, since it would now require a customer to take specific action to request and receive a directory. As such, Verizon is obligated to provide adequate customer notice of that change and of the options available to receive printed white pages delivery. Customers must have sufficient notice of the change in order to ensure that they have continuous and uninterrupted ready access to directory information.

While many customers now rely on web-based services or electronic devices to obtain directory information, not all customers want or have access to alternative methods of accessing the directory. Discontinuing delivery of white pages residential listings has the potential to cause initial confusion or inconvenience to some customers, especially those customers who do not have Internet access. The change also has the potential to cause some confusion among CLEC subscribers who depend on Verizon's white pages directories.

¹⁹ Florida, New Jersey, New York State PSC

²⁰ Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Maryland, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Virginia.

²¹ See Sen. Leland Yee press release, "Yee Announces Green Legislation for White Pages," at http://dist08.casen.govoffice.com/index.asp?Type=B_PR&SEC={EFA496BC-EDC8-4E38-9CC7-68D37AC03DFF}&DE={70516137-06AF-44DC-89BF-A52BA0A344D2}

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Therefore, in order to ensure that customers receive adequate notice of and information about the change, and to ensure that the change does not result in widespread customer confusion and inconvenience, we place certain conditions on our approval of Verizon's request.

Adequate Notice

First, TURN recommends that all notices of the change provided to customers should come from Verizon, not SuperMedia. We agree. Customers could be confused by notices from and references to SuperMedia. Also, such notices could be easily overlooked as junk mail. Therefore, any notices to customers should be under Verizon's name. This requirement also should apply to website notices and the online directories – the information should be readily accessible via Verizon's website.

Verizon has stated that as soon as the Advice Letter is approved, it will update its Product Guide to notify customers that residential white page directories will be provided free of charge upon request, in either printed form or on CD-ROM, as well as online. We agree that Verizon should update the Product Guide upon approval of the Advice Letter, but no later than one month before discontinuing automatic delivery. The language in the Product Guide should clearly state that a customer only needs make the election to receive a printed copy of the white page residential listings directory once and that once this election is made the customer will continue to annually receive such printed directory to that address unless the customer changes his/her request, or discontinues local service from Verizon or the relevant CLEC.

Verizon should also place a permanent notice explaining the change on its national website or alternately a link on its national website to such an explanation.

Further, advance notice should be provided directly to Verizon's customers. At least 30 days before discontinuing automatic delivery in a service area, Verizon should issue a press release explaining the change similar to the press release in Attachment A.

Also, Verizon must include a separate sheet with notice of the change and instructions to customers, in all directories automatically delivered to customers during the first directory cycles to customers after discontinuing automatic delivery.

Verizon states that it will include a bill message on its monthly billings four times throughout the first year of implementation explaining the change and instructing customers how to order the residential listings directories (See Attachment B). We support inclusion of a bill message on the monthly billings for the first year. We find that the language Verizon proposes in Attachment B, if amended to include the

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statement that an election to receive a printed or CD-ROM directory need only be made once, is adequate.

Furthermore, we will order Verizon to place notices on the cover, on the table of contents page, and the Customer Information Guide of all printed and CD-ROM directories delivered to subscribers. The language examples in Attachments C, D, and E are adequate.

To avoid customer confusion and any discrimination against CLEC customers, Verizon must provide one telephone number for all customers who want to request free delivery of the white pages directory of residential listings.

TURN also urges the Commission to require Verizon to continue to provide Spanish-language listings under the same terms and conditions as English white pages listings. In its response, Verizon states that it will provide information describing the change to demand-based delivery of residential white pages listings in the same language in which the printed directories are currently provided; and the bill message will be provided in Spanish, as well. However, Verizon does not provide separate listings in Spanish versus English; a listing is a listing.

The Commission need not address here in-language marketing rules. Verizon must abide by the existing in-language marketing rules. Where such rules require Verizon to provide a non-English speaking directory of residential listings, this Order would apply.

Customer Election and Delivery Requirements

In response to questions from Communications Division staff as to what days and hours the live operator will be available at the 800 number to take requests, Verizon responded that although the automated directory ordering system will be available 24/7, live operators will be available only Monday to Friday, 8:00 a.m. to 6:30 p.m. Eastern. We find it reasonable that a live operator not be available 24/7, as long as the automated service is available to California customers 24/7.

Verizon has stated that upon request for delivery of a printed directory or CD-ROM, Verizon will deliver, by mail, the requested material within 14 to 21 days. We find this proposal to be reasonable. To ensure that this standard is implemented, we will require Verizon to deliver the requested directory or CD-ROM to the customer within 21 calendar days of receiving the request.

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Treatment of CLEC Customers

In response to Communications Division questions and in discussions with CLECs, Verizon has stated that it will treat CLEC customers the same as Verizon customers and provide CLEC customers the same directory options as its own customers. CLEC customers will only need to order once a printed white page directory of residential listings at which time they will be placed on a standing order to receive it every year. Verizon has also stated that upon approval, it will issue an Industry Letter to all CLECs operating within the Verizon California region explaining the change and what directories will be affected. Verizon has stated that it will continue to honor its interconnection agreements with other carriers who depend on their directory service, and fully comply with Commission Decision (D.) 96-02-072. As stated in Verizon's reply to the protest of Cox/CALTEL, "Verizon will continue to accept and maintain CLEC listings, interfile them with Verizon customer listings, and display them in the white pages, in all media offered, as well as make them available to directory assistance. Verizon will continue to distribute a directory containing the customer guide section, business and government white pages and yellow pages. CLEC business and government listing information will continue to be included in this directory with Verizon customer information as is the case today." "No OSS changes are required" and "any requirements for submitting listings via a local service request (LSR) are unchanged." We will make these commitments part of this resolution.

Directory Assistance

TURN requests the Commission to order Verizon to provide five free directory assistance calls after the change is implemented stating that it "fully expects that some customers will not read the bill inserts provided by Verizon in advance of the change. The changes proposed by Verizon will likely result in customers making increased use of directory assistance calls. "TURN also urges the Commission to require Verizon to track and report on the number of directory assistance calls on a quarterly basis for the first year of implementation. Verizon responds that "TURN's proposal to require Verizon to provide any number of free Directory Assistance (DA) calls as a condition of approving demand-based delivery of residential white pages lacks any factual or legal basis. In fact, this proposal contradicts the Commission's Uniform Regulatory Framework (URF) decision, D.06-08-030, which established market-based pricing for the service. " Verizon also points out that Verizon will provide notice to customers via other avenues in addition to the bill inserts and that customers "very likely will be informed by the many other means of notification that Verizon has planned". Verizon states that TURN's proposal for 5 free DA calls is arbitrary." Verizon currently does not provide free Directory Assistance. Verizon however stated in its reply to TURN's protest that it will agree to two tracking and reporting conditions, provided, however, that they sunset one year after implementation of the proposed change:

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- Verizon will track and report the number of households ordering white page listings for one year after implementation ; and
- Verizon will track and report total number of DA calls for one year after implementation.

Two other state commissions have required AT&T to provide quarterly reports on the number of requests and the number of DA calls it receives after a similar change; however, these changes were scheduled to begin in November 2010 and January 2011, and reports are not yet available.²² Further, TURN has provided no data to support the need to impose such a requirement. Without factual information and in light of our policies adopted in the URF decision, we decline to require Verizon to provide free DA upon approval of the Advice Letter. We note again that under Verizon's proposal all customers, upon request, can continue to receive delivery of a free printed directory of white page listings.

However, we agree with TURN that we should monitor this matter to see if DA calls increase substantially after implementation of the Advice Letter proposal. We will therefore order Verizon to track and report to the Director of the Communications Division, on a quarterly basis, the number of DA calls for two years after implementation of the change and report the results. A two-year reporting requirement is necessary in order to evaluate the impact of the change on all Verizon customers, some of whom may not receive new directories until the latter part of the first year of implementation. Verizon should also report the same information for the corresponding quarter in the year preceding the year of implementation for comparison purposes.

We also support and applaud Verizon's agreement to track and report the number of households ordering white pages listings for one year after implementation. We will adopt this requirement which will help the Commission evaluate the impact of this change on customers.

COMMENTS ON DRAFT RESOLUTION AND DISCUSSION/CHANGES TO CONDITIONS

The Communications Division's draft Resolution was mailed to the parties in accordance with Cal. Pub. Util. Code Sec. 311(g). Comments were filed on February 23, 2011, by Verizon California Inc., The Utility Reform Network (TURN), AT&T California (AT&T), and jointly by Cox California Telcom, LLC (Cox) and the California Association of Competitive Telecommunications Companies CALTEL. Reply comments

²² New Jersey and New York

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were filed on February 28, 2011, by TURN. We have considered these recommendations and make the following changes to our orders:

Staff previously proposed that Verizon provide notice via a separate mailing in addition to the billing notices, press release notice, notices in all printed directories and notice on Verizon's website and Product Guide. Verizon, AT&T, and Cox/CALTEL object to the separate mailing requirement. Verizon states that a separate mailing "would be very costly to implement — in excess of a \$1 million and possibly as high as \$3 million"²³ and that any benefit from this additional notice requirement would not be worth the cost. Verizon also states that this proposed requirement "also overlooks the probability that many recipients will treat the mailings as 'junk,' thereby increasing the environmental impacts of a plan whose intent is the opposite." Both Verizon and AT&T point out that there is no factual analysis in the draft Resolution of whether the costs of the conditions outweigh the benefits they bring." Cox/CALTEL state that "While the cost and burden associated with a separate mailing are significant, there is no indication that a separate mailing will increase the likelihood of a customer reading it. The Draft Resolution appears to underestimate the value of bill messages in communicating important information to customers." As an alternative to the separate mailing requirement, Verizon "suggests that an alternative, lower-cost option would be to add a message to the annual mailer that Verizon already sends to all customers every June."(-June Residence/Business 2011 Extra.)²⁴

Cox/CALTEL also object to the requirement that Verizon send this separate mailing to CLEC customers, stating that such a requirement "would raise competitive and logistical concerns."

Staff has reviewed the cost figures provided by Verizon. Staff also takes note that the CPUC's own General Order 96B Advice Letter Telecommunications Industry Rules requiring notice to customers 30 days before the effective date of a change in terms and conditions of service, does not require a separate mailing nor even a separate bill insert. These facts have persuaded staff to eliminate the proposed requirement for a separate mailing to notify customers. We agree with the elimination of the separate mailing notice requirement. However we will adopt Verizon's suggestion that it include notice of the change in its annual mailer.

²³At staff's request Verizon has provided to staff the cost information supporting this statement.

²⁴ Verizon notes that, "in order to make it into this June's mailer, the Commission would need to approve Verizon's advice letter at its March 10 business meeting to meet the printer's pre-publication deadline. This is a firm deadline over which Verizon has no control."

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In response to the comments of Cox/CALTEL we also withdraw any requirement that Verizon mail a separate notice to CLEC customers.

Staff originally recommended that Verizon permanently add to its bills a message stating that a customer must request printed copies or CD-ROMs of the residential listings. Verizon and AT&T object to the "perpetual" bill message requirement, asserting that the markets changing and thus a permanent requirement makes no sense. AT&T states that bill messages can add to the cost of the mailing especially if the message requires an additional sheet of paper. As an alternative, Verizon proposes to provide monthly bill messages for one year after implementation of the change, instead of quarterly as initially proposed. We agree and modify this proposed condition to require a bill message on each monthly bill for the first year after implementation of the change.

Staff previously proposed that Verizon make a live operator available from 8:00 a.m. to 6:30 a.m. Pacific Time Verizon objects to the live operator service hours requirement, noting that "this requirement would impact the workforce requirements of SuperMedia — an unregulated company that manages and operates all directory publishing and delivery activity for Verizon nationwide." Verizon emphasizes that "any customer wishing to order a directory can do so via a Voice Recognition Unit (VRU), which will be available 24 hours a day, 7 days a week." We eliminate this proposed condition for expanded live operator hours. However we will require that Verizon make available to California consumers 24 hours a day/ 7 days a week an automated system via a toll-free number for customers to order delivery of a paper copy or CD-Rom of the residential white pages. We believe that this requirement will protect the interest of California customers.

Staff originally recommended that Verizon report Directory Assistance calls distinguishing between calls for business listings and calls for residential listings. Verizon requests that we modify this requirement .. Verizon states that it "does not track and cannot provide reliable data on the business/residential split for DA calls.... because some DA calls are handled by live operators, and others are handled by a VRU; and data regarding such calls are not collected in the same manner across both platforms. In fact, the operator-assisted calls are not distinguished by California business and residential listings requests. ". In reply comments, TURN states that this requirement was imposed [on Verizon] by the New Jersey Board of Public Utilities. In response to staff questions, Verizon states that: "With respect to the DA call level reporting in New Jersey, Verizon will be providing the total number of DA calls. We have the same limitation with regard to call segregation between Business and

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Residence there that we do in California.” We thus modify our tracking and reporting order to take into account this limitation.

AT&T states that offering customers the option of requesting a free CD-ROM should not be a condition of discontinuing delivery of printed directories; we nevertheless accept Verizon’s proposal to offer that option and make it a part of our ordering paragraphs.

Verizon further requests clarification of certain conditions, so as to make them “acceptable.” We make the following clarifications.

- *First*, we clarify that Verizon California must issue its press release such that it reaches outlets in all its markets at least 30 days prior to the implementation of the change in that market. This condition may be met by a statewide press release, or separate releases in local markets, as circumstances require.
- *Second*, we clarify that the proposed condition requiring notification of the change “via Verizon’s website” does require Verizon to include on its national homepage website a description of the change and how to order printed directories or CD-ROM, or alternately a link to a webpage with this information.. It is quite likely that a consumer searching for Verizon California’s website would search under “Verizon.com” and thus get connected to the Verizon’s national website.
- *Third*, Verizon seeks clarification whether a blow-in card (that is, a printed card at least postcard-size that is blown in between the pages of a bound document) would satisfy the requirement in Ordering Paragraph 6 that a “separate sheet with notice of the change and instructions to customers” be included in the directories . We do not find that a blown- in card would be acceptable. However, a printed paper or card inserted on top of the front cover a wrapped printed directory or glued to the front cover of the directory will meet this requirement.

TURN requests clarification of our discussion of TURN’s request regarding Spanish-language directories. We agree that the conditions we impose here apply to all directories, including any non-English language directories provided by Verizon in compliance with our Consumer Protection Initiative D.06-03-013.

Finally we add a requirement that Communications Division staff monitor for 18 months after the effective date of this resolution the outcome of the change in the provision of white pages approved by the resolution and subsequently provide the

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Commission with an evaluation of the change. We order the staff not to consider any similar utility requests until after the 18 month monitoring period. This adoption of resolution shall not be treated as precedential until after the 18 month monitoring period.

FURTHER COMMENTS ON THE DRAFT RESOLUTION:

In its May 24, 2011, Comments on the proposed Alternative Resolution, T-173902A, AT&T California objects to Ordering Paragraph #23 of the revised T-17302 which states that staff is not to consider any similar utility requests until after the 18-month monitoring period. AT&T states that “[t]his proposal changes the white pages requirement of D.96-10-066 for all other carriers. Such a change applicable to other carriers resulting from an advice letter filed by one carrier not only violates other parties’ due process rights and § 1708 of the Public Utilities Code,²⁵ it is also discriminatory, arbitrary, and capricious. This revision cannot be legally adopted.” [footnote deleted]. The Commission takes note of this argument and will delete that ordering paragraph from the Resolution.

Staff also proposes clarifying changes to proposed Ordering Paragraph #4 and #12. Ordering Paragraph #4 is amended to clarify that the requirement that Verizon include on its national website information about the directory change does not require that the actual homepage of the national website must include the information. The national website must only provide access to a site with the information.

Ordering Paragraph 12 is amended to clarify that if a customer calls Verizon or a Verizon affiliate to ask about the change in directory delivery or to order a printed directory of White Page residential listings, Verizon may discuss other Verizon services with the customer but only if the customer initiates the request for such non-directory information. However, SuperMedia will be prohibited from any discussion of Verizon’s other services.

FINDINGS

²⁵ Pub. Util. Code 1708. The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision.

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1. The Verizon California Advice Letter 12535 was properly filed as a Tier 3 advice letter pursuant to G.O. 96-B Telecommunications Industry Rule 7.3 (1) requiring a formal Resolution and Commission approval.
2. The Moore Universal Telephone Service Act is silent as to whether telephone corporations must deliver a printed, paper white pages directory to customers' homes.
3. Although it was the intent of the Commission when it adopted the elements of basic telephone service in D. 96-10-066 that incumbent local exchange carriers would automatically deliver paper copies of white pages directories to customers, the language of the order did not specifically require that carriers automatically provide a paper copy of such directory.
4. Our purpose in establishing a white pages directory requirement was to ensure that customers would receive a free paper copy every year. Verizon's proposal would fulfill that purpose.
5. The telecommunications industry has experienced dramatic changes in technologies, market, and customer needs and expectations since 1996.
6. Telephone customers have more sources of directory information available to them today than they did when D. 96-10-066 was adopted.
7. It is reasonable to reinterpret the telephone directory delivery rule in light of changed circumstances.
8. Customers must receive adequate notice of the change so that they do not experience any disruption to ready access to directory information.
9. The Commission should monitor the implementation results of the proposed change to ensure that the change does not result in hardship to customers.

THEREFORE, IT IS ORDERED that:

1. Pursuant to General Order 96-B, we approve, with modifications, Verizon California Inc.'s proposal in Advice Letter 12535 to end automatic delivery of printed white pages directories containing residential listings and instead offer customers the option of a printed white pages directory of residential listings or a CD-ROM with such listings, as well as an online directory of the listings.
2. All notices provided to Verizon California customers of the change in delivery of white pages directory listings must be under Verizon's name.
3. Verizon must update its Product Guide to notify customers that white pages directories of residential listings will be provided free of charge upon request, in either printed form or on CD-ROM, as well as online, upon approval of the Advice Letter but no later than one month before discontinuing automatic delivery. The language in the Product Guide should clearly state that a customer

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need only make the election to receive a printed copy of the white page residential listings directory once and that once this election is made the customer will continue to annually receive such printed directory to that address unless the customer changes his/her request or discontinues local service from Verizon.

4. Verizon must place on its national website an explanation of the change in delivery options and how to order delivery of a printed white pages directory of residential listings, or alternately a link from the national website to a website with this information. The online directory of white page residential listings must be readily accessible via Verizon's website.
5. The online directory of white page residential listings must be readily accessible via Verizon's website.
6. At least 30 days before discontinuing automatic delivery of white pages residential listings in a service area, Verizon must issue a press release explaining the change, similar to the press release in Attachment A.
7. During the first directory delivery cycle in a given area after discontinuing automatic delivery of residential white page listings, Verizon must include a separate sheet, on top of all white and yellow page directories automatically delivered to customers, with notice of the change and instructions informing customers how to order a printed directory or CD-ROM of residential listings and how to access the residential listings online.
8. Upon implementation of the change and for one year thereafter, Verizon must include on each of its monthly billing statements to customers language notifying customers of the change and where the customer can order a printed directory or CD-ROM and access the residential listings online. The notice on the bill must include the statement that an election to receive a printed or CD-ROM directory need only be made once.
9. For directories and CD-ROMs delivered to customers after adoption of the Advice Letter, Verizon must permanently place notices of the change and instructions on how to order a printed copy of the white pages directory of the residential listings or a CD-ROM on the cover, on the table of contents page and in the Customer Information Guide, similar to Attachments C, D, and E, as described in Verizon's Advice Letter filing.

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10. Verizon must include in its annual mailer "June Residence/Business 2011 Extra" information about the change.²⁶
11. Verizon must provide one toll-free telephone number for all customers who want to request free delivery of a printed white pages directory or CD-ROM of residential listings.
12. Verizon must provide reasonable availability of directory ordering. A live operator available from 8:00 a.m. to 6:30 p.m. Eastern Time, Monday through Friday, to respond to such requests and 24/7 automated ordering system is reasonable.
13. Verizon must provide and deliver a requested printed copy of the white pages directory of residential listings or a requested CD-ROM of such listings, free of charge to requesting customers in the Verizon service area covered by the directory.
14. In any communication (written, oral, or electronic) about Verizon's new process concerning published directory listings, SuperMedia will not provide, either directly or indirectly, customers with any statements, information, advertisement or marketing materials about Verizon or its services (regulated or unregulated), except its directory services. In any communication initiated by a customer (written, oral, or electronic) about Verizon's new process concerning published directory listings, Verizon will not provide, either directly or indirectly, customers with any statements, information, advertisement or marketing materials about Verizon or its services (regulated or unregulated), except its directory services, unless a request for such non-directory related information is initiated by the customer.
15. Verizon must continue to honor a customer's request for a printed copy of the white pages directory of residential listings or request for a CD-ROM of such listings until the customer opts out or discontinues telephone service from Verizon or the relevant CLEC.
16. Verizon must continue to provide consumer rights information and all of the other information and notices required by statute and by regulation in the yellow pages or combined directories automatically delivered to customers.

²⁶ Verizon notes that, "in order to make it into this June's mailer, the Commission would need to approve Verizon's advice letter at its March 10 business meeting to meet the printer's pre-publication deadline. This is a firm deadline over which Verizon has no control."

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17. Verizon must make available to CLEC customers the new white pages directory distribution options – print, CD-ROM, or online, just as they are available to Verizon customers, on a non-discriminatory basis.
18. Verizon must continue to honor its interconnection agreements with CLECs relating to directory publication and access to directory listing information, and fully comply with Commission Decision (D.) 96-02-072.
19. Upon approval of the Advice Letter, Verizon must send an industry letter with an outline of the residential white pages change to all CLECs in the Verizon California region.
20. Verizon must track and report to the Director of the Communications Division , on a quarterly basis, the number of directory assistance calls for two years after implementation of the change. Verizon must also report the same information for the corresponding quarter in the year preceding the year of implementation for comparison purposes.
21. Verizon must track and report the number of households ordering a printed copy of a white pages directory of residential listings for one year after implementation.
22. Communications Division staff shall monitor for 18 months after the effective date of the resolution the outcome of the changes in the provision of directory white pages approved by the resolution and subsequently provide the Commission with an evaluation of the changes.
23. This adoption of this resolution shall not be treated as precedential until after the 18-month monitoring period.

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This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 9, 2011, the following Commissioners voting favorably thereon:

/s/ Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President

TIMOTHY ALAN SIMON

MARK J. FERRON
Commissioners

Commissioner Michel Florio dissented.

Commissioner Catherine J. K. Sandoval reserves the right to file a dissent.

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Attachment A:

Verizon press release

California Public Utilities Commission Approves Verizon's Request to Stop Automatic Delivery of Printed Residential White Pages

Sacramento – The California Public Utilities Commission on (DATE) granted Verizon's request to provide customers with an online, electronic version of Verizon White Pages directory listings as the primary means to access residential telephone directory information. Beginning in January, most Verizon directories delivered in California will not include residential white pages listings. At that time, customers can request a free printed or CD-ROM directory of residential listings be sent by mail by calling 1-800-888-8448.

Print directories – containing business and government white pages, information pages and the yellow pages – will continue to be delivered. All white pages listings are accessible at www.verizon.com/whitepages, and the residential print and CD-ROM versions will be available free, upon request.

To improve efficiency and reduce the environmental impacts associated with printed directories, Verizon in October requested the California Public Utility Commission to waive the existing requirement to deliver residential white pages. The company noted that significant resources are expended annually to print and automatically distribute directories to customers who may not want or use them.

Residential white pages usage has decreased considerably due to the Internet and mobile search. Gallup estimates the usage for residential white page directories had dropped to about 11 percent in 2008. In addition, the discontinuation of the residential white pages directories is expected to keep approximately 1,900 tons of paper out of the California waste stream.

Reducing the use of paper is a significant part of Verizon's comprehensive sustainability efforts. Last year alone, Verizon and its customers saved over 573 million pages of paper by switching to paperless billing. Verizon's aggressive energy reduction and recycling measures reduced the company's CO2 emissions by more than 793 million pounds in 2009, which is approximately the amount of CO2 emitted by 46,700 homes in a year.

SuperMedia LLC is the publisher of the Verizon directories.

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**Attachment B:
Verizon bill message**

**White Pages Proposal
Draft Verizon Bill Message for California:
California White Pages Change**

Beginning in January 2011, some directories delivered in California will not include residence White Pages listings. All White Pages listings can be accessed at www.verizon.com/whitepages. To order a free print or CD ROM copy of your local residential White Pages, please call 1-800-888-8448.

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Attachment C

GET THE JOB DONE RIGHT, OR WE'LL STEP IN AND MAKE IT RIGHT.*

Look inside for businesses backed by the SuperGuarantee.SM
Brought to you by SuperMedia.

Sign up and get details on
superguarantee.com

WE MAKE IT EASY TO SPOT THE GOOD GUYS.

superyellowpagesSM

superpages.comSM

supermedia *The Yellow Pages Division of Verizon Media Group

ANYTOWN

MONTH 2010-2011 AREA CODES 123, 456, 789
Includes Listings For Anytown Anytown Anytown Anytown Anytown Anytown Anytown Anytown
Anytown Anytown Anytown Anytown Anytown Anytown Anytown Anytown Anytown
Includes Listings of All Local Exchange Telephone Companies / ©2010 SuperMedia LLC. All Rights Reserved.

To advertise, call 1-800-899-0166

*Complete details of participation in the guarantee program can be found online at www.superguarantee.com

Residential white pages are not included in this directory.
To order directories, stop delivery of this directory, or obtain a free copy of the residential white pages,
visit www.verizon.com/whitepages or call 1-800-899-8448.

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Attachment D



**EMERGENCY CALLS ONLY
LLAMADAS DE
EMERGENCIA SOLAMENTE**

911

**FIRE POLICE SHERIFF
HIGHWAY PATROL
PARAMEDICS
MEDICAL EMERGENCIES
BOMBEROS POLICIA SHERIFF
PATRULLA DE CARRETERAS
PARAMEDICOS
EMERGENCIAS MEDICAS**

Text Telephone (TTY) Customers 911
Téléphone de Texte (TTY) Clients 911

**NONEMERGENCY NUMBERS/
NÚMEROS QUE NO SON DE EMERGENCIA**

Fire/Bomberco	336-6341
Crestline	*337-6586
Lake Arrowhead	*336-0800
Police/Police/Sheriff	*336-0800
Crestline	*336-0800
Lake Arrowhead	*336-0800

*San Bernardino County

OTHER IMPORTANT NUMBERS

California Missing Children Hotline	1-800-222-FIND (1-800-222-3463)
Coast Guard/Search and Rescue	1-810-437-3700
Emergency Only	1-810-437-3701
Emergency Mental Health Hospital Services	580-1800
Federal Bureau of Investigation (FBI)	866-0335
Riverside	951-477-2555
If no answer	Los Angeles 1-810-477-2555

TABLE OF CONTENTS

- CUSTOMER INFO GUIDE**
- GOVERNMENT PAGES**
- RESIDENTIAL LISTINGS**
Residential white pages listings are not included in this directory. The residential white pages listings are now online at www.verizon.com/whitepages. To obtain a free print or CD-ROM copy of your residential white pages call 1-800-826-8448.
- BUSINESS LISTINGS**
- SUPERGUARANTEESM**
- YELLOW PAGES**

OTHER IMPORTANT NUMBERS (continued)

National Center for Missing and Exploited Children	1-800-843-5878
Text Telephone (TTY)	1-800-626-7553
National Hopeline Network	1-800-SUICIDE (1-800-784-2433)
Suicide Prevention Hotline	
National Response Center	
Report Chemical/Oil Spills and Chemical/Biological Terrorism	(Voice/TTY) 1-800-424-6502
National Suicide Prevention Lifeline	1-800-273-TALK (1-800-273-8255)
Poison Control Center	(Voice/TTY) 1-800-222-1222
Secret Service	
Los Angeles	1-213-894-4800
Riverside	276-6781
US Postal Inspection Service	
Criminal Investigations	1-877-876-2456
Vanished Children's Alliance	1-800-VANISHED (1-800-826-4743)
24-hour Sighting Hotline	

For your convenience, please find the White Pages for this directory online at www.Verizon.com/whitepages. To order directories, stop delivery of this directory, or obtain a free copy of the residential white pages call 1-800-826-8448.

CALL 911 IN EMERGENCIES

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Advertisement Customer Info Guide



Friend,

My name is Scott Klein, CEO of SuperMedia. We are the official publisher of the Verizon Print Directories, including this SuperYellowPages. I wanted to share with you some positive changes you will see in your SuperYellowPages.

Based on our research and feedback, we've taken out the residential white pages. To receive a free copy of the complete residential white pages - in CD-ROM or printed versions - call 1-800-888-8448. An electronic version is available for free at www.verizon.com/whitepages.

If you want to adjust the number of directories you receive or remove yourself from directory distribution, call 1-800-888-8448 and select option two or go to <http://my.supermedia.com/directories/unsubscribe/>. For a complete list of phone numbers of the directory publishers in your area, visit www.yellowpagesonline.com.

With this improvement to the SuperYellowPages, we've made it easier to spot the good guys. You know - contractors, painters, auto mechanics and other businesses you rely on to get the job done right. Our good guys are part of a larger program designed to save you time and ease your mind. It's what we call the SuperGuarantee.

Just look for businesses backed by the SuperGuarantee shield in this SuperYellowPages and you can count on them to do the job right, or we will step in and make it right. Best part is the SuperGuarantee is absolutely free. Complete details can be found at the beginning of our yellow pages section containing our eligible businesses.

In these SuperYellowPages you will see white pages business listings, local emergency numbers, local government pages, special sections like Dining Your Way and money-saving coupons.

Sincerely,

Scott W. Klein

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Attachment F:
Directory number script

VRU: Welcome to the speech activated ordering system, a fast way to order directories.
Please speak your answers to the questions that follow:

VRU: What is your 10 digit telephone number?

Consumer response: xxx-xxx-xx

VRU: Let me verify. I heard...xxx-xxx-xxxx. Is that correct?

Consumer response: Yes

VRU: What is your 5 digit postal code?

Consumer response: xxxxx

VRU: Let me verify. I heard xxxxx. Is that correct?

Consumer response: Yes

VRU: Is that TN for a residential account?

Consumer response: yes

VRU: A confirmation number will be spoken at the end of this call signifying your order has been placed. If at anytime during this call you wish to speak with a customer service representative, just say "operator". There are two books available for your area. The books available are ... and ... Would you like to order (name of book)? (NOTE: This is where the option for the residence WP is offered.)

Consumer response: Yes

VRU: How many copies would you like?

Consumer response: 1

VRU: Let me verify. I heard (name of book). It that correct?

Consumer response: yes

VRU: Would you like to change the number of books received annually?

Consumer response: No (If yes, how many would you like to receive?)

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VRU: Would you like to continue ordering books?

Consumer response: No (If yes, would you like to order name of books)

VRU: Would you like to order any non-local books?

Consumer response: No (if yes, the following info will help us find the telephone book you want to request. In what state is the book you seek...)

VRU: You have requested one copy of (name of book). Would you like to place the order now?

Consumer response: Yes.

VRU: You'll receive your order within 14-21 days. Your confirmation number is (xxxxxxx). Thank you for calling...

If the consumer requests an "operator" vs. use of the VRU, the process is as follows:

Rep will ask consumer for following information: Telephone, Name, Address, Confirm title of local directory, Confirm # of copies needed

Scripting: We will be happy to place your order to be shipped to (reconfirm address). Would you like to receive the (reconfirm title) this year only or would you prefer to receive your local directory automatically? Thank you for your order. You should receive your order in the mail in approximately 14-21 business days.