BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	
Section 63.71 Applications of AT&T Services, Inc., on behalf of its affiliate; Pacific Bell Telephone Company d/b/a AT&T California	WC Docket No. 26-120; Comp. Pol. File No. 2137
Authority Pursuant to Section 214 of the Communications Act of 1934, As Amended, To Discontinue the Provision of Service	WC Docket No. 26-121; Comp. Pol. File No. 2138

APPLICATION FOR REVIEW

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July 29, 2026

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Introduction

On May 20, 2026, AT&T filed two applications seeking to discontinue residential and business POTS service in wire centers throughout California.[1] On May 29, 2026, the Wireline Competition Bureau set the comment deadline at June 15, 2026 and provided that, absent further action from the Commission, the discontinuance applications would be deemed granted on June 29.[2] The People of the State of California and the California Public Utilities Commission ("CPUC" or "California") timely opposed the applications[3]—as did consumer advocates, a bipartisan coalition of elected officials representing California's rural communities,[4] and hundreds of ordinary Californians. And, although not timely filed in these dockets, the Commission has also heard the serious policy concerns of, among others, twenty-eight members of the California Congressional delegation[5] and Republican gubernatorial candidate Steve Hilton.[6] All of these commenters, including the CPUC, provided a credible argument that AT&T's applications did not meet the requirements of sections 214 of the Act and 63.71 of the

[1] *Section 63.71 Application of AT&T Servs., Inc.*, WC Dkt. 26-120 (filed May 20, 2026) ("AT&T Business POTS Discontinuance Application"); *Section 63.71 Application of AT&T Servs., Inc.*, WC Dkt. 26-121 (filed May 20, 2026) ("AT&T Residential POTS Discontinuance Application").

[2] DA 26-539 (rel. May 29, 2026).

[3] Opposition of the People of the State of Cal. and the Cal. Pub. Utils. Comm'n, WC Dkt. Nos. 26-120 & 26-121 (filed June 15, 2026) ("Opposition").

[4] Comments of The Util. Reform Network & the Rural County Representatives of Cal., WC Dkt. Nos. 26-120 & 26-121 (filed June 15, 2026) ("TURN/RCRC Comments").

[5] 28 Congressional California Delegation Members Letter to FCC Opposing AT&T Landline COLR ETC Discontinuance Petitions, WC Dkt Nos. 26-120, 26-121, 26-123 & 26-125 (filed July 22, 2026).

[6] Letter from Steve Hilton to FCC Chairman Carr, July 6, 2026 ("For many Californians . . . landlines are not a luxury. They are a backstop."), *available at* https://www.instagram.com/p/Dadn0nQFUQN.

Commission's rules and should therefore be denied. At a minimum, the comments established that AT&T's applications were not suitable for streamlined review and should be taken up by the full Commission. Nevertheless, the Bureau said nothing, and the applications were deemed granted.

The CPUC now files this application for review.[7] The Commission should reverse the Bureau's grant of section 214 discontinuance authority and reject AT&T's applications outright. In the alternative, the Commission should remand the applications to the Bureau with directions to remove them from streamlined processing, so that the Bureau can work with the parties to address the serious questions that have been raised.

Argument

I. Under the circumstances presented here, the Bureau's failure to issue a written order violates the Administrative Procedure Act and due process.

That we seek review not of the Bureau's words but of its silence demonstrates both the unusual nature of this proceeding and the harm that the Bureau's non-action has worked on the many commenters who opposed AT&T's applications. As a policy matter, the Bureau has left the CPUC, California, and the hundreds of thousands of affected customers with no explanation of why these applications were granted despite the critical public health and safety questions that discontinuance poses. And as a legal matter, the Bureau's silence prejudices our attempt to seek review. The Commission's rules specify, for example, that applications for review should refer to the Bureau's

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[7] *See* 47 U.S.C. § 155(c)(4); 47 C.F.R. § 1.115(a).

"findings of fact or conclusions of law,"[8] and "shall state with particularity the respects in which the action taken by the designated authority should be changed."[9] Without something—anything—from the Bureau, how could anyone do so? As another example, applications for review shall "specify with particularity" the grounds for review, including where the Bureau made "[a]n erroneous finding as to an important or material question of fact."[10] How could we know? We are left arguing with a ghost.

For most section 214 applications that qualify for streamlined processing, automatic approvals make good sense. As the Commission has noted, most such applications are relatively straightforward and go entirely unopposed.[11] But where, as here, numerous commenters have provided well-supported reasons why the applications should not go forward, more is required.

The Administrative Procedure Act provides: "Prompt notice shall be given of the denial in whole or in part of a . . . request of an interested person made in connection with any agency proceeding. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial."[12] Having received multiple non-frivolous requests to reject the applications or to

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[8] 47 C.F.R. § 1.115(b)(1).

[9] 47 C.F.R. § 1.115(b)(3).

[10] 47 C.F.R. § 1.115(b)(2)(iv).

[11] *See Reducing Barriers to Network Improvements and Serv. Changes*, Report and Order, FCC 26-19, WC Dkt Nos. 25-208 & 25-209, ¶ 86 (Mar. 27, 2026) ("*Network Modernization Order*") (noting that, since 2013, objections were submitted with respect to only 10 percent of discontinuance applications filed by dominant carriers).

[12] 5 U.S.C. § 555(e).

remove them from streamlined processing, the Bureau was bound to set forth the grounds for denying those requests. And while an agency's decision, even one "of less than ideal clarity," should not ordinarily be disturbed "if the agency's path may reasonably be discerned,"[13] an agency conclusion supported "with *no* explanation" is the epitome of "arbitrary and capricious" decisionmaking.[14] This opacity violates not just the Administrative Procedure Act but traditional notions of due process and fair play.[15] If nothing else, therefore, the Bureau's non-action is in this respect "in conflict with statute, regulation, case precedent, or established Commission policy."[16] And, as seen below, the Bureau's silence prejudices the CPUC's ability to seek review in other respects as well.

II. In implicitly accepting AT&T Phone – Advanced as an adequate substitute for the discontinued service without addressing the evidence to the contrary, the Bureau violated Commission precedent and section 214, and reached an issue of first impression.

In other respects, too—at least as far as we can tell—the Bureau's silent acquiescence either violates "statute, regulation, case precedent, or established

[13] *Bowman Transp.*, *Inc. v. Arkansas-Best Freight Sys.*, *Inc.*, 419 U.S. 281, 286 (1976).

[14] *Commc'ns & Control*, *Inc. v. FCC*, 374 F.3d 1329, 1335-36 (D.C. Cir. 2004) (emphasis in original); *see also*, *e.g.*, *Motor Vehicle Mfrs. Ass'n of the United States*, *Inc. v. State Farm Mut. Auto. Ins. Co*, 463 U.S. 29, 43 (1983) (an agency must "examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made") (internal quotation marks omitted); *SEC v. Chenery Corp.*, 332 U.S. 194, 196-97 (1947) ("It will not do for a court to be compelled to guess at the theory underlying the agency's action . . . ."); *Butte County*, *Cal. v. Hogen*, 613 F.3d 190, 194 (D.C. Cir. 2010) ("The agency's statement must be one of reasoning; it must not be just a conclusion; it must articulate a satisfactory explanation for its action.") (internal quotation marks omitted).

[15] *See*, *e.g.*, *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) ("An elementary and fundamental requirement of due process . . . is notice reasonably calculated, under all the circumstances, to . . . afford [the parties] an opportunity to present their objections. . . . The notice must be of such nature as reasonably to convey the required information.").

[16] 47 C.F.R. § 1.115(b)(2)(i).

Commission policy" or "involves a question of law or policy which has not previously been resolved by the Commission."[17] AT&T has not shown that all of the affected customers will have adequate service after AT&T's proposed discontinuances or that its discontinuances are in the public convenience and necessity. Its applications thus fail to meet the Adequate Replacement test—much less qualify for streamlined treatment under the *Tech Transitions Order*.[18] Nor, therefore, has it shown that granting the applications is lawful under section 214.

AT&T's applications rest principally on the availability of either AT&T Phone – Advanced or AT&T Phone for Business – Advanced (collectively, "AP-A"). AT&T claims that AP-A is available to all affected customers.[19] And it notes that the Commission has previously accepted AP-A as an adequate substitute for POTS service provisioned over copper loops.[20] Thus, it argues, the Commission must find the same

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[17] 47 C.F.R. § 1.115(b)(2)(ii); *see also* 47 C.F.R. § 0.291(a)(2) (the Bureau "shall not have authority to act on any applications which present novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines"); *Fones4All Corp. v. FCC*, 550 F.3d 811, 819 (9th Cir. 2008) (the Bureau "may not decide issues of first impression").

[18] *Technology Transitions*, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd. 8283, 8303-04, ¶ 61 (2016) ("The 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.'" (quoting 47 C.F.R. § 63.71(a)(5)(i)-(ii)). AT&T concedes that the Adequate Replacement Test, as set forth in the *Tech Transitions Order*, applies to its applications. *See* AT&T Residential POTS Discontinuance Application at 3 n.7.

[19] *See* AT&T Business POTS Discontinuance Application at 3 ("Critically, *every* Affected Customer has an alternative: *all* can receive the AT&T Phone for Business – Advanced ("APB-A") service . . . ." (emphasis in original)); AT&T Residential POTS Discontinuance Application at 3 (same as to residential service).

[20] AT&T Residential POTS Discontinuance Application at 3-4 and n.8

here.[21] It is not clear whether the Bureau accepted AT&T's assertions, in whole or in part. To the extent that it did, however, that was in error for at least three reasons.

First, the only evidence that AP-A serves all affected customers is AT&T's claim that it does. But to meet the Adequate Replacement test and to be eligible for streamlined treatment, an applicant must "*demonstrate*[] that the replacement service reaches the entire geographic footprint of the area served by the legacy voice service."[22] There is nothing in the *Tech Transitions Order* indicating that an applicant's say-so is enough to meet that requirement. Likewise, to the extent that the Bureau relied on AT&T's assertion that other carriers' services also cumulatively serve every affected location[23] (again, we have no way of knowing), the Bureau also erred. The *Tech Transition Order* requires that the applicant "*demonstrate* that other providers cumulatively reach all customers in the affected coverage area" by either "describ[ing] with sufficient particularity the geographic scope of the replacement service(s) available from the other provider(s) . . . or otherwise demonstrat[ing] that each of these services satisfies the criteria" in the *Tech Transitions Order*.[24] AT&T's applications do not "demonstrate"

[21] *See id.* at 3-4.

[22] *Tech Transitions Order*, 31 FCC Rcd. at 8328, ¶ 124 (emphasis added); *accord Network Modernization Order*, FCC 26-19 at ¶ 23 n.83 ("[T]he replacement service must be available in all locations throughout the affected service area in order to be eligible for streamlined processing.").

[23] *See* AT&T Residential POTS Discontinuance Application at 7-12.

[24] *Tech Transitions Order*, 31 FCC Rcd. at 8283, ¶ 124 (emphasis added); *accord Network Modernization Order*, FCC 26-19, ¶ 25 (applicants must "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 . . ." and must "identify the available replacement services using the smallest practicable geographic unit depending on the geographic areas impacted by the specific application at issue").

anything of the sort. In apparently accepting AT&T's unsupported claims that replacement services are available to *all* affected customers, the Bureau violated Commission precedent and section 214.

Moreover, as the CPUC pointed out in its Opposition, those previous applications in which the Commission has found AP-A to be an adequate replacement for traditional wireline service have involved very different situations than the one presented here, covering states in the South and Midwest with "vastly different topography and vastly different concerns" than the affected areas in California.[25] The *Tech Transitions Order* was clear that, to be eligible for streamlined processing, a replacement service must not only be available to all affected customers, it must "actually function as intended for affected customers."[26] AT&T submitted no evidence showing that AP-A would function as intended *in California*, as opposed to what testing plans elsewhere might have shown. And, to the contrary, the CPUC submitted evidence raising serious doubts that it would.[27]

To accept testing plans from other states without considering whether those plans adequately describe conditions in California, and without considering record evidence showing limitations in the proposed service—and, therefore, whether AP-A would be available to all affected customers and actually function as intended—violates the *Tech*

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[25] Opposition at 6 and n.23; *see also* TURN/RCRC Comments at 3 ("[T]he Commission cannot rely on the findings of previous testing plans because they are not relevant to the conditions present in the wire centers at issue here. Given the unique geographic, climate, and regulatory landscapes in California, the Commission should not rely on data from wholly different regions of the United States.").

[26] *Tech Transitions Order*, 31 FCC Rcd. at 8328, ¶ 123; *accord Network Modernization Order*, FCC 26-19 at ¶ 23 n.83 ("[T]he replacement service must be available in all locations throughout the affected service area in order to be eligible for streamlined processing.").

[27] Opposition at 9-20; *see also* TURN/RCRC Comments at 3-8.

Transitions Order and section 214. Moreover, the CPUC has been unable to find a Commission order answering the question whether testing plans from one state can apply without limitation anywhere else in the country. To the contrary, the Commission has been clear that it allows "repeat applicants the opportunity, *where appropriate*, to rely on testing data from previously approved applications . . . ."[28] It does not stand to reason that testing data from the South or Midwest is necessarily appropriate for the Sierras. Whether AT&T could rely on those previous approvals is also, therefore, a novel question of fact or policy that the Bureau may not answer in the first instance.

III. Even if AT&T did meet the Adequate Replacement test, the potential harms to vulnerable populations required the Bureau to remove the applications from streamlined processing.

"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."[29] The CPUC submitted evidence showing that AT&T's proposed discontinuances cut most sharply in rural and low-income areas.[30] And both AP-A and the other carriers' services it claims are replacements could be significantly more expensive than the basic telephone service AT&T intends to discontinue.[31] As the

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[28] *Tech Transitions Order*, 8311, ¶ 81 (emphasis added); *see also id.* at 8322, ¶ 109 ("[T]he Commission will include in its evaluation of the discontinuance applications *whether the testing conditions used were appropriate to measure performance.*" (emphasis added)).

[29] Statement of Comm'r Anna M. Gomez, *Network Modernization Order*, FCC 26-19.

[30] Opposition at 12-20; *see also* TURN/RCRC Comments at 9-14.

[31] Opposition at 11 ("AP-A relies on a cellular signal or a separate internet connection and internet service plan. For areas of the state with a poor cellular signal—typically, rural and low-income areas—consumers would need to

Commission wrote in the *Tech Transitions Order*: "Should we receive evidence of material price increases for comparable services, particularly those with a disproportionate impact on vulnerable populations, we would remove that application from consideration for automatic grant."[32] And even beyond price increases—the CPUC, TURN/RCRC, and hundreds of concerned California residents submitted comments demonstrating that AT&T's applications did not meet the public convenience and necessity. In granting AT&T's applications on a streamlined basis without addressing these comments—or indeed, even acknowledging them—the Bureau violated Commission precedent and section 214.

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order and pay for a separate internet service, assuming one is available, which would make AP-A more expensive than Basic Service."); *see also* TURN/RCRC Comments at 7 ("A service can hardly be a replacement if the cost of that service prices a consumer out of the market.").

[32] *Tech Transitions Order*, 31 FCC Rcd. at 8348, ¶ 176; *accord Network Modernization Order*, FCC 26-19, ¶ 30 ("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 . . . .");

Conclusion

The Wireline Competition Bureau's streamlined grant of AT&T's discontinuance applications violated the *Tech Transitions Order*, 47 U.S.C. § 214(a), 5 U.S.C. § 555(e), and the Due Process Clause of the Fifth Amendment, and rested on novel issues of fact or policy. The Commission should reverse the Bureau's determination and either deny AT&T's discontinuance applications or remand the applications to the Bureau with directions to remove them from streamlined processing.

Respectfully submitted,

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