BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking	))	Proceeding # R.24-06-012
To Consider Revisions to the Commission's	))	Filed June 20, 2024
Carrier of Last Resort Rules		

MEDIA ALLIANCE REPLY COMMENTS

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October 30, 2024

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Order Instituting Rulemaking To Consider Revisions to the Commission's Carrier of Last Resort Rules	)))) 	Proceeding # R.24-06-012 Filed June 20, 2024

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I. Introduction

Media Alliance is a Bay Area democratic communications advocate. Our members include professional and citizen journalists and academics, researchers and community organizers who use the communications system to relay information about current affairs and seek to impact the public agenda. Our work focuses on the intersections between class, race and communication rights in the interests of peace, justice and social responsibility. The ability of our members and their audiences to access robust and affordable online tools and services to communicate is central to our work. We have been involved in digital inclusion and broadband availability work in Northern California for the last 15 years.

Having been accepted as a party in this proceeding after the initial proposals were submitted, Media Alliance will simply take this reply comment opportunity to share our perspectives on some of the proposals and comments issued by the parties on September 30. In so doing, our comments will necessarily be somewhat brief and are not intended to be exhaustive or to preclude further comments on these subjects as the proceeding progresses. But we will highlight some areas of interest in the initial set of proposals and comments as well as address at least partially some of the questions laid out in the OIR.

II. The Commission is Bound by Numerous Precedents to Uphold Universal Service Principles

As numerous parties have laid out exhaustively in their comments, including Public Advocates, Joint Commenters and EQUAL, it should not and fundamentally is not up for debate that requirements that Californians can access useful, reliable and affordable voice communication services, no matter their income level or geographic location, are and remain in effect. This is crucial for a number of reasons including public safety in a time of increasing climate extremes, economic vitality including the important small business sector, and the protection of vulnerable individuals whose connections to the outside world can affect their ability to survive. What these requirements mean has been described in several ways by different parties but hit upon the same basic themes: service must be available and accessible, it must be reliable and of sufficient quality, and it must be affordable. While there are common-sense understandings of what these factors mean, the Commission is currently engaged in a voice service quality proceeding (i.e. GO-133) which is specifically focused on refining the question of what adequate service quality consists of and we cannot stress enough that several of the questions in this proceeding will rely heavily on the outcome of that proceeding.

On the availability and accessibility front, we must object to the Happy Valley (and similar Consolidated) proposal that "*a carrier should be permitted to relinquish its COLR status upon a showing through a Tier 3 advice letter process that 80% or more of the area in which it seeks to lift the COLR designation has access to service by at least one alternative service provider".* The idea that a COLR designation would be removed when as much as 20% of the service area does not have access to service by at least one alternative service provider is an abomination that fails to recognize the most basic premise of universal service; universality. We cannot leave people, whatever their circumstances, without service. That is the fundamental purpose of a carrier of last resort designation and under no reconstitution of those rules should it be an option to allow a COLR to withdraw without clearly identified alternative service providers. Every Californian must be able to access basic service, however defined, at an affordable price and the Commission should not step away from that stance in this proceeding at all. The stakes are high – it can be a matter of life and death.

The question of affordability, as the Commission knows, is somewhat of a sticky wicket as affordability very much depends on the resources at hand. In some circumstances, very little is affordable. The tying of COLR status with Lifeline subsidies is therefore crucial to the affordability

puzzle and must remain a part of COLR service to underserved and unserved communities throughout California.

III – Competition

Industry parties devoted a great deal of text to rhapsodizing about the increase of competition in the communication services market – both "multi-modal and "intermodal". As a short list, there is POTS, Facility-based VOIP, OTT VOIP, Mobile Wireless, Fixed Wireless and Satellite. With all due respect for the miracles of technological innovation, and an acknowledgment that many, if not most, California residential customers absolutely want to take advantage of new innovations and services, we must take a moment to remind that the intent of competition, in the market sense, is to benefit the consumer, not the providers. Competition can provide more choices, it can when it works properly reduce prices, and it can provide enhanced convenience and features. We have not entirely in the CA market for communications services seen all of the expected benefits of market competition due to service footprint areas, investment decisions and geographic limitations. Some Californians have extremely limited choices, and some Californians have not seen the significant price reductions that true competition should deliver. The COLR designation is in place because the new bright world of telecom is not evenly distributed among all Californians. We have not completely eliminated the digital divide, and we have not ensured that every Californian can choose among several affordable, reliable and high-quality voice and digital service options. So competition-based deregulation cannot serve as the default answer to the questions asked by this proceeding, even if many Californians can have their needs met by the increasing competition in the sector.

Moreover, as the proceeding that followed the AT&T application to withdraw demonstrated, customers sometimes have different ideas than the companies do about what constitutes adequate service for them and what service alternatives might meet their needs. It is probably not an exaggeration to say that the Commission received more robust public comment in that process than it generally receives and the feedback from Californians was **not** that market competition was meeting all of their needs and the carrier-of-last-resort designation was an unneeded anachronism and a leftover legacy of the monopoly days. It is in fact, startling to us, that AT&T continues to state that Californians don't need or want services that Californians insist, in large numbers, that they do need and want. AT&T makes much of the 5% landline retention rate in some of their COLR service area, which is

about 75% of California. By our calculator, that represents 1,462,500 people hanging on to their legacy copper landlines because they want them. That is not a de minimus number of Californians and what it tells us is that all of the wonderful alternatives to landlines are not meeting the needs of many Californians so completely that they are ready to abandon their landlines. We should listen to them, not allow corporations with financial incentives convince us that they know better what people want and need than the people know themselves.

In fact, the people are not crazy. They have good and sufficient reasons for feeling that plain old telephone service is something they want to pay for and want to continue to access. Reasons will vary from rural isolation to difficult terrain to climate extremis to health concerns to familiarity and trust in the technology to old age and to disability. Let's face it. This commission approves regular power safety shutoffs for energy conservation reasons that can make it impossible to charge a wireless device or use an Internet connection. The CAMP fire, among other weather disasters, took out cell and Internet service and many if not most of the new technological innovations have vulnerable or inadequate back-up power facilities. Will this improve over time? Probably. But right now, I can travel a mere 25 miles from my very urban home and be in a cell dead zone where I can't make or receive a call. CTIA, in their filing, makes a rather convincing argument for the inadequacy of wireless services as carriers of last resort. One party commented: "*The proliferation of communications applications such as Facetime, Teams and Zoom make the concept of a simple voice call seem romantic".* It is romantic until there is a fire or a flood and the power goes out and the cell tower dies.

In short, competition needs to be defined as a plethora of market choices that customers find acceptable, not that industry finds acceptable. If that existed today, the application from AT&T would have been met with public apathy. It wasn't.

IV – Definition of Basic Service

Several parties address the current definition of basic service. In particular, the Public Advocates suggest a new requirement for 100/20 broadband service. We certainly share the Public Advocate's enthusiasm for defining broadband as a basic necessity for engagement in modern society. And there is no doubt that adding such a requirement would provide a meaningful incentive for broadband investment in areas where industry has been sluggish. There are, to be sure, segments of the population that maintains their landlines that would be happy to dump them for a voice service

powered by a robust broadband connection. We are skeptical however, that all of the current landline constituency would find that an acceptable substitute and the climate resiliency problems are not entirely addressed by a 100/20 broadband connection. Moreover, a percentage of the population, whatever you may think of the veracity of their concerns, wants a landline for health-related reasons and we feel strongly that it is not the place of this commission nor the industry to force them into technology they feel that cannot use safely.

Other parties suggest less radical changes to the basic services definition including dumping some requirements for directory and operator service that do point to the days of yore. We could agree that these requirements could probably be jettisoned without too much damage if their removal reduces the burden on COLR's to maintain them. We would also point to the relative infeasibility of the reverse auction process as demonstrated by the lack of response of alternate COLR's in response to AT&T's application. Placing the burden of securing an alternate COLR on to the departing party, as EQUAL suggests, seems like a fair way to facilitate an exit from COLR designation, if the Commission wishes to enable such a thing.

V – Who Can Be a COLR?

The question of whether a VOIP provider can be a COLR is intricately tied to the service quality (GO-133) proceeding and whether such services can meet the service quality metrics required to be recognized as a high-quality and reliable provider. Since we are not parties in that proceeding, we will demur on providing an opinion on that right now and simply observe that the issues are linked. We take and agree with NTIA's affirmative statement that wireless providers should not be carriers of last resort designees. Voluntary VOIP designees, as pointed out, can also un-volunteer themselves, so any voluntary designation must be accompanied by a binding and enforceable agreement that the Commission has confidence that it can enforce.

With regard to jurisdictional arguments, we would note that accepting voluntary VOIP COLR designations to provide basic telephone services should by definition constitute acceptance by VOIP providers that they are telephone corporations. It seems absurd to sign on as a telephone carrier of last resort while arguing that you are not a telephone.

VI – Miscellaneous

With regard to other more minor issues raised in the OIR:

* We agree with SBUA that small businesses should be considered as residents and included in notification processes.

* We agree with EQUAL that customer notices should include a clear statement of zip codes that will be affected by COLR withdrawal request and include a list of replacement COLRs with contact information.

* We agree with EQUAL that if a COLR seeks to withdraw in only a portion of a zip code area, the COLR should provide a link to a mapping system that enables a customer to more clearly understand if his or her address/location is affected.

* We agree that evidentiary hearings are likely needed in this proceeding and also think a virtual public participation hearing is likely the only way for the Commission to hear from the most highly impacted communities. While a PPH would likely contain somewhat redundant public testimony with the AT&T withdrawal hearings, this is a matter of great importance for the public and they should be provided with a way to provide input short of the party process.

* If you have not yet observed, we are advocates for the maintenance of the legacy copper at this time. We do not yet think it is time to "do away with the copper". But we are sensitive to the complaints regarding the costs of maintaining the network. While we do not think that previous neglect of the network by its owners is entirely the responsibility of the state and taxpayers, we would be favorable to changes to the high-cost fund to assist with those costs until there is a much fuller build out of fiber to the home across the state.

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Respectfully submitted,

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