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ASSEMBLY COMMITTEE ON
COMMUNICATIONS AND CONVEYANCE
TASHA BOERNER, CHAIR
ASSEMBLYMEMBER, SEVENTY-SEVENTH DISTRICT

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0094
(916) 319-2637
FAX (916) 319-3560

CHIEF CONSULTANT
EMILIO PEREZ

COMMITTEE SECRETARY
ELIZABETH DELGADO

OVERSIGHT HEARING

Carrier of Last Resort (COLR): Obligations for California's Telephone Companies

Wednesday, March 19, 2025
State Capitol, Room 127
1:00PM – 3:00PM

BACKGROUND

Under state and federal laws, an entity that owns, operates, or manages a telephone line for compensation is a public utility, or common carrier. In general terms common carriers and public utilities are entities that provide essential services such as electric, gas, water, and telecommunications service to the public. Within the realm of telephone service, a carrier of last resort (COLR) is a designated service provider that has a legal obligation to provide access to basic telephone service to any household in its service territory who requests it. The state's definition of basic telephone service is technology neutral, meaning basic telephone service may be provided using any technology or combination of technologies sufficient to meet the minimum service requirements. While basic telephone service has historically been provided through copper wires, an outdated technology that is not capable of providing modern broadband internet connectivity, some COLRs meet their obligations through more advanced technologies that also support broadband internet access such as fiber-optic cables or wireless facilities.

Across the state, every census block has a specified carrier that is designated as the COLR by the California Public Utilities Commission (CPUC), even in areas where there may be multiple providers offering telephone service. In areas where there are multiple providers in the market, it is typically only one carrier that is designated to hold the legal obligations of the COLR. The legal obligations placed on a COLR have been a tenant of universal service for decades, to ensure that everyone has guaranteed access to safe, reliable, and affordable telephone service. According to the California Public Utilities Commission (CPUC), there are 16 COLR-designated companies across California with distinct service territories. AT&T is the designated COLR in many parts of the State and is the largest COLR in California; Frontier is the second largest COLR in the State.

LEGAL AND REGULATORY HISTORY

The existence of a carrier, or provider, of last resort is a foundational legal tenet of the regulation of public utilities. The concept of such an entity has origins in English common law, American federal and state law, and historical regulatory policies. English common law, in the time of horse and buggies, vested common carriers of physical parcels, or mail, with the duty to transport those goods for the public under equal terms and conditions. As communications technology progressed beyond physical communication with the invention and proliferation of the telegraph, and the public became concerned about concentrated private ownership or monopoly control of communications systems, similar common carrier requirements were placed on telegraph and telephone operators. For example, Congress passed the Communications Act of 1934 which established telephone and telegraph operators as common carriers.

For much of the 20th century a single company, the American Telephone & Telegraph (now AT&T), owned and operated most of the telephone infrastructure in the country essentially as a monopoly granted by government. Along with that market power, utility regulatory bodies such as the CPUC were vested with the authority to regulate the rates of telephone service to ensure just and reasonable prices for customers, control against unreasonable profits, and enforce the obligations to serve all customers in a discriminatory manner. In that context, it was clearly not unreasonable to require that the only telephone carrier available in the marketplace would be expected to serve all the households in its service territory, rural and urban, as a carrier of last resort. However, this scheme began to change in the 1980's with the introduction of competition into the telephone market. In 1982, the United State Department of Justice succeeded in its antitrust litigation against AT&T, resulting in a breakup of the company into smaller regional entities. The breakup of AT&T also paved the way for further innovation of telecommunications and other competitors to enter the telephone services market. For example, mobile telephone service first began to become commercially available in the 1980s. Subsequently, Congress passed the Telecommunications Act of 1996, which further incentivized competition in telecommunications service market as a means to reduce prices, and increase quality and innovation. Despite the proliferation of competition in the telecommunications marketplace over decades, COLR requirements have remained as a means to ensure there is a guaranteed provider of basic telephone service regardless of the status of the market. However, some may question whether these decades-old requirements are continuing to serve their intended purpose or perhaps are stifling potential public benefits such as lower prices and access to higher quality services.

EVOLVING TECHNOLOGIES AND THE ERA OF COMPETITION

Just as the preferred type of telecommunications technologies transitioned at the turn of the 20th century from telegraph to telephone, consumers today are once again increasingly transitioning towards more modern telecommunications services such as mobile telephone and broadband internet service when those options are available. For example, consider several data points from the Center for Disease Control (CDC) National Center of Health Statistics, which has measured the availability of telephone service in households for decades. In 1999 the CDC estimated that about 95% of California households had a household telephone, while in 2007 nationwide figures showed that only about 16% of households relied on wireless phone service only. Data from 2023 show that 76% of

adults lived in households that did not have landline telephone but did have at least one wireless telephone, a stark difference since the late 90s and early 2000s. Beyond telephone service, data from the California Statewide Digital Equity Survey published in 2023 show that 91% of households also subscribe to high-speed internet access at home. In summary, most consumers today have more options for telecommunications service, from more providers utilizing different types of technologies, than ever before. However, the public benefits of competition have not been realized equally across the state.

Whereas in the monopoly era, it was essentially one company that had an obligation to provide telephone service to households, while also being designated as the COLR in fact. However, there is no carrier of last resort for mobile telephone service or broadband internet access. In fact, under state or federal law broadband internet service providers are not a public utilities or common carriers. Even mobile telephone providers, although they are common carriers, are not subject to the same requirements as a COLR. Unlike the monopoly era, regulators are not empowered to require a mobile telephone or broadband internet provider to expand their network to unserved households or meet baseline quality of service requirements. As a result, in areas where there is little market incentive for providers to enter, households remain unserved and underserved by more advanced telecommunications technologies or wireless reception can be spotty. The areas of the state which have not benefited from competition in the market generally are disproportionately rural and lower-income, and may never be served by advanced technologies regardless of COLR or without government intervention. The dichotomy, between well-served areas with robust competition for telecommunications services, and less well-served areas where the market is not meeting consumers' needs for advanced communications services like broadband internet access raises a quandary. How can the public's interest in universal access to telecommunications and broadband service best be met moving forward in a changing marketplace, and to what extent, if any, do changes to the state's COLR legal and regulatory framework support the goal of universal service?

The public policy considerations that COLR regulations pose are particularly relevant now that regulators at the CPUC are consideration changes to the framework, industry is advocating for reform, and the Legislature may consider changes of its own. Last year, AT&T filed an application before the CPUC seeking relief of its COLR obligations in targeted areas, primarily those that are well served with multiple providers. While that application was rejected for procedural reasons, the CPUC has since opened a separate regulatory proceeding to consider changes to the state's COLR regulations. Additionally, in recent years legislation has been introduced that has been intended to address revisions to COLR requirements in the state. As these processes move forward, this hearing is intended to give Members and the public a better understanding of what COLR is and the underlying policy impacts to weight when considering reforms.

ISSUES FOR COMMITTEE CONSIDERATION

As the Committee hears information and updates from panelists related to Carrier of Last Resort requirements in California, changes to the telecommunications marketplace and the impact of competition, and ongoing regulatory processes happening at the CPUC, Members may wish to inquire about the following:

- Universal Service: If COLR requirements have been intended to support the state's universal telecommunications service goals, how might revisions to the state's COLR rules increase or decrease access for consumers?
- Federal Government: Given changes at the federal level, how would changes at the state-level interact or be affected by federal actions?
- Competition: While competition for telecommunications services has increased in some areas of the state, how can state policies ensure protections for non-competitive areas and/or incentivize more competition in those areas?
- Alternative Services: Is mobile telephone and/or broadband internet access a reasonable alternative service to landline telephone service?
- Regulatory Burdens: To what extent, if any, are existing COLR rules burdens for further innovation, investment, and competition? Also, what changes, if any, might be more effective to advance those goals?
- Technology Innovation: What technologies are available on the marketplace, and what are consumers preferring to purchase?
- Service Quality: Is there an adequate regulatory and legal scheme to ensure the quality of telecommunications service across the state without COLR?
- Public Notice: What notices to the public are appropriate if changes will be made?
- Public Safety: Will changes to COLR obligations inherently impact public safety, or might changes advance the public's safety and readiness to respond to disasters?
- Public Benefits: What public benefits that serve the public interest might be realized in a transition?