Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of AT&T for Preemption	)	
and Declaratory Ruling regarding	)	WC Docket No. 26-125
California's Carrier of Last Resort	)	
and Related Requirements	)	
	)	

REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

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I. INTRODUCTION

The National Association of State Utility Consumer Advocates (NASUCA),[1] respectfully submits these reply comments in the above captioned docket. Legacy phone service is nowhere near being a relic of the past. Across California, (and in other states) tens of thousands of households rely on landline telephone service, including legacy plain old telephone service (POTS), provided by Carriers of Last Resort (COLR). While AT&T claims its petition is aimed at the requirement to continue providing POTS, the California COLR rules that AT&T seeks to preempt are technology neutral. This means that AT&T's preemption would eliminate the state's

[1] NASUCA is a voluntary association of 62 consumer advocate offices. NASUCA members represent the interests of utility consumers in 45 states, the District of Columbia, Puerto Rico, Barbados and Jamaica. NASUCA is incorporated in Florida as a non-profit corporation. NASUCA's full members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General's office). NASUCA's associate and affiliate members also represent the interests of utility consumers but are not created by state law or do not have statewide authority. Some NASUCA member offices advocate in states whose respective state commissions do not have jurisdiction over certain telecommunications issues.

authority to ensure that there is a carrier obligated to serve all customers within its service territory regardless of network technology. Further, this preemption would impact all customers of every telecommunications carrier designated as a COLR, not just AT&T.

Comments to the Commission regarding this proceeding and AT&T's Section 214 petitions have shown that the California Attorney General, local governments, residents, and consumer advocates oppose AT&T's petition to have California's COLR rules preempted.[2] As NASUCA has stated in its resolutions and previous filings, all customers require reliable telecommunications service.[3] This includes the many consumers across California and other states who continue to rely on POTS service to remain connected because they do not have a reasonable and reliable alternative choice.

Those supporting AT&T's petition have failed to demonstrate that the FCC has the authority to preempt California. Additionally, comments in support of AT&T's petition have not provided any evidence that granting AT&T's petition to preempt California's COLR rules would lead to cheaper, more reliable services throughout AT&T's service area. Instead, commentors have only argued that AT&T's monetary interest somehow gives the Federal Communications Commission (FCC or Commission) authority and jurisdiction to eviscerate state law. Congress

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[2] *See, e.g.*, Comments of Rural County Representatives of California, California Alliance for Digital Equity, California Farm Bureau Federation, California State Association of Counties, Communications Workers of America, Small Business Utility Advocates, and The Utility Reform Network (RCRC et al.), July 7, 2026. *See*, also, Opening Comments of the People of the State of California and the California Public Utilities Commission, July 7, 2026.

[3] See, e.g., See, WC Docket Nos. 25-209 and 25-208, Joint Reply Comments of the National Association of State Utility Consumer Advocates, The Colorado Office of Utility Consumer Advocates, The Connecticut Office of Consumer Counsel, the Maryland Office of People's Counsel, the Oregon Citizen's Utility Board, and The Utility Reform Network (WC Docket Nos. 25-209 and 25-208, NASUCA et. al.) at 3-4, 17, 31-32. See, also, NASUCA Resolution 2013-12, *Calling for the Development of National and State Policies to Ensure Reliable Wireline and Wireless Communications During a Power Outage.* https://www.nasuca.org/2013-02-calling-for-the-development-of-national-and-state-policies-to-ensure-reliable-wireline-and-wireless-communications-during-a-power-outage/

did not intend for the FCC to have this power. Just because a crucial technology is considered "old" does not mean the FCC can disconnect thousands of residents without ensuring that every consumer will receive a comparable service that is just as reliable as the disconnected service.

II. THE RECORD SHOWS THAT THE COMMISSION LACKS THE AUTHORITY TO PREEMPT CALIFORNIA'S CARRIER OF LAST RESORT REGULATIONS.

Supporters of AT&T's petition provide scant analysis of authority that allows the Commission to preempt California's COLR rules. Most discuss the perceived benefits and rely on an expansive reading of Section 214 of the Communications Act. However, there is little—if any—refutation that other sections of the Communications Act, such as 152, 253, and 254 constrain the Commission's authority to supersede a state's police powers and promotion of universal service.[4] In fact, these sections demonstrate that neither express, nor implied conflict preemption is permissible in this instance.

a. Congress Applied Expressly Peremptory Language Elsewhere in the Communications Act, but not in Section 214.

Where Congress intended preemption to exist, it stated so clearly. Section 253 contains expressly preemptive language in two places. Section 253(a) states that "[n]o State or local statue, or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."[5] Congress was clear in its drafting that states and localities do not have the authority to craft rules that inhibit a provider from offering services. Similarly, in Section 253(b) Congress imbued the states with the authority to promote universal service. Section 253(b) reads: "Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and

[4] See, e.g., USTelecom at 2-7.
[5] *See* 47 U.S.C. § 253(a).

consistent with section 254 of this title, requirements necessary to preserve and advance universal service. . . ."[6] Petition supporters cannot claim that this direct grant of authority is somehow overcome by an overly broad and vague reading of Section 214.

b. Conflict Preemption and the Impossibility Exception are also Inapplicable.

AT&T claims an "impossibility exception" applies because, in its view, the CPUC cannot separate intrastate POTS with counterpart interstate services.[7] The impossibility exception would have the effect of preempting state law if the inter and intrastate aspects of the service cannot be separated and the state regulation conflicts with federal regulatory objectives.[8] However, as the Rural County Representatives of California et. al.(RCRC et. al.) point out, AT&T characterizes any telephone network as inherently indivisible, economically if not technologically.[9] Under AT&T's view of the world, every state telecommunications rule or law would be preempted.

Congress did not intend for an impossibility exception to swallow the entire telecommunications world. RCRC et al. explains how the courts have upheld the states' right to regulate under Section 152(b).[10] Specifically noting that the FCC authority does not have unlimited authority to preempt state laws when facilities are physically inseparable.[11] Furthermore, the D.C. Circuit held that strategically allowing overlapping use of the same network infrastructure to permit federal regulatory jurisdiction would grant the Commission "unchecked authority" to force states to deregulate intrastate service whenever it chose to deregulate interstate service.[12] If AT&T has its way then the express authorities granted in

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[6] *See* 47 U.S.C. § 253(b).
[7] AT&T Petition at 7-8.
[8]*Id*. at 8.
[9] RCRC et al. at 24.
[10] *Id*. at 26.
[11] *Id*.
[12] NARUC v. FCC, 880 F.2d 422, 429 (D.C. Cir. 1989).

152(b) would be gutted in favor of a federal regulatory regime. AT&T's argument that California's COLR rules are preempted by federal regulations conflicts with both the plain reading of the Communications Act and judicial precedent.

III. THE RECORD DOES NOT SUPPORT AT&T'S CLAIM THAT AT&T PHONE-ADVANCED IS A RELIABLE ALTERNATIVE.

At their core, commentors in favor of the granting of AT&T's petition argue that copper networks are obsolete or, otherwise, that the market and technology has shifted so vastly that it is unfathomable to maintain legacy copper networks.[13] What they do not discuss are the practical realities of the alternative services that AT&T says are available. AT&T claims that its AT&T Phone Advanced (AT&T P-A) product is more reliable, more efficient, and cheaper than the legacy POTS service.[14] AT&T offers no evidence demonstrating the suggested alternative service is "better." Rather, AT&T has stated that it has not sought a determination of whether AP-A would be adequate because it assumed that the CPUC would not approve any alternative.[15] As such, AT&T's assumption became a self-fulfilling prophecy, not by any fault of the CPUC, but of AT&T's own making. AT&T claims that other states have evaluated the service,[16] but by AT&T's own admission, the CPUC has not been afforded that opportunity. The FCC cannot, now, find that AT&T P-A is an adequate replacement in California because there has never been an opportunity for the CPUC to evaluate the service.

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[13] *See* Comments if ITIF at 2-3; Comments of the Public Safety Broadband Technology Association at 2; Comments of Christopher S. Yoo and Justin (Gus) Hurwitz at 2.
[14] Petition for Preemption and Declaratory Ruling, WC Docket No. 26-125 (filed May 20, 20026) at 5 (AT&T Petition).
[15] AT&T Petition at 4.
[16] AT&T Petition at 5

Further, this docket is replete with almost 400 comments from residents across California who highlight a lack of access to a reliable cellular signal. For example, a resident of Boulder Creek has noted over the last seven years, there have been seven federally declared disasters in their community. During these times, she reports that cellular coverage was unavailable while her landline remained operable.[17] Similarly, another resident explained elderly loved ones in poor health rely on landlines for connections to 911, their health professionals, and essential services.[18] They also explained that cellular service is compromised in their area when Public Safety Power Shutoffs,[19] fires, or other natural disasters occur, but landlines have continued to provide much needed connectivity.[20] These problems are consistent with those identified by NASUCA offices and provided in comment on the Commission's Notice of Proposed Rulemaking in the Network Modernization dockets.[21] Even commenters supporting AT&T's petition agree that network modernization should be implemented in a manner that maintains public confidence and protects essential communications capabilities.[22] In this case, maintaining public confidence and protecting communications capabilities means not rushing to disconnect tens of thousands of California residents from their preferred choice of communications service.

Finally, even though AT&T claims otherwise,[23] in California POTS service has been shown to be more reliable and resilient than AP-A. For example, the CPUC's 2024 Service Quality Phase One Staff Proposal found that between 2021 and 2023 VoIP and wireless reported

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[17] Comments of Ann R. Thryft at 1.
[18] Comments of Nina Beety at 4.
[19] A Public Safety Power Shutoff (PSPS) occurs in California when an electric utility turns off power to specific areas to reduce the risk of wildfires caused by electric infrastructure. The guidelines for PSPS are established by the California Public Utilities Commission CPUC - Evolution of PSPS Guidelines (Last accessed July 18, 2026).
[20] *Id*.
[21] See, WC Docket Nos. 25-209 and 25-208, NASUCA et. al. at 7-8, 9-11.
[22] *See* Comments of ITIF at 3.
[23] AT&T Petition at 3.

outages were significantly higher than POTS reported outages.[24] Over those three years VoIP services accounted for 53% of the outages, wireless services accounted for 27%, while POTS accounted for only 12%.[25] AT&T claims that the battery backups at its cell sites and provided with its AP-A in-home devices maintain a connection even in the event of power loss.[26] However, a battery backup in a consumer device is of no use if power to the cell site is interrupted. Moreover, the CPUC requires that every provider maintains 72-hours of backup battery power at their cell sites located in high or moderate fire threat districts, based on the CPUC's fire threat map.[27] In 2023, carriers self-reported that nearly one-third of wireless facilities in high and moderate fire threat districts do not have the requisite backup power.[28] CPUC staff have conducted site visits of wireless and wireline carriers to verify compliance. In 2023, CPUC staff inspected 35 AT&T Mobility sites requiring 72 hours of backup power.[29] Eleven of these sites, 31%, did not have the necessary backup power, meaning that these areas of AT&T's network will fail during a prolonged power outage like Public Safety Power Shutoffs

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[24] CPUC Communications Division, Service Quality Proceeding Phase One Staff Proposal (2024 CPUC Staff Proposal) (filed June 27, 2024) at 3, https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M534/K529/534529539.PDF.

[2525] *Id*. at 3.

[26] AT&T Petition at 5.

[27] CPUC, Order Instituting Rulemaking Regarding Emergency Disaster Relief Program, R. 18-03-011, Decision Adopting Wireless Provider Resiliency Strategies, D. 20-07-011, Ordering Paragraph 2, (July 20, 2020), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M344/K021/344021480.PDF; and Decision Adopting Wireline Provider Resiliency Strategies, D. 21-02-029, Ordering Paragraph 4, (February 11, 2021), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M366/K625/366625041.PDF

[28] CPUC Communications Division, Site Visits Report, Emergency Disaster Relief Program Years 2021, 2022 and 2023 at 36 (2024 CPUC Site Visits Report) (Oct. 31, 2024), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/reports/sitevisit-reports/2021-2022-and-2023-site-visits-report-final.pdf

[29] 2024 CPUC Site Visits Report at 26-28.

implemented during dangerous fire weather conditions. Under these circumstances, it is not reasonable to assume that AT&T P-A is a reliable alternative.

IV. CONCLUSION

California's COLR Rules act as a backstop to keep vulnerable households from being disconnected. Through fires, earthquakes, floods, and other natural disasters a working phone line is crucial. California's authority to protect the health and well-being of its residents by ensuring that communications services are reliable is well grounded in federal and state statute. There is no statutory or regulatory basis to supersede California's COLR Rules. For these reasons and the reasons described above, Commission should deny AT&T's petition.

Respectfully submitted,

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