



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**FILED**

06/30/23

04:59 PM

A2303003

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 Tariff  
Obligations.

Application 23-03-003  
(Filed March 3, 2023)

**PROTEST OF NINA BEETY  
TO APPLICATION 23-03-003**

June 30, 2023

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## **I. Introduction**

In accordance with Rule 2.6 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), Nina Beety submits this Protest of the Application of Pacific Bell Telephone Company d/b/a AT&T for Targeted Relief From Its Carrier of Last Resort (COLR) Obligation and Certain Associated Tariff Obligations (“Application”).<sup>1</sup>

In this application, AT&T seriously mischaracterizes the copperline POTS system and its importance to Californians and public safety, ignores disabled populations for which copperline landline service is essential, and ignores state and federal anti-discrimination laws and AT&T’s obligations as a monopoly, a COLR, and a recipient of state and federal subsidies.

The CPUC should deny AT&T’s application.

## **II. Discussion**

### **A. The essential role of COLR for the public**

In their Protest, The Utility Reform Network (TURN) and Center for Accessible Technology (CforAT) cite the Commission’s own 1996 decision on universal service quality, and further state, “The Commission’s COLR requirements are the foundation of the Commission’s universal service policy, i.e. ensuring that every customer is able to obtain voice service. This information bears repeating.

In fact, AT&T’s argument is a gross misstatement and misinterpretation of Commission precedent and the purpose of California’s COLR requirement. As the Commission noted in its precedential decision imposing COLR obligations:

“The COLR is a regulatory concept rooted in the idea that by accepting the franchise obligation from the state to serve a particular area, the public utility is obligated to serve all the customers in that service area who request service (D.95-07-050), p. 36; 3. C.R.C. 948, 956-957. The COLR concept is important to universal service policy because it ensures that customers receive service.”<sup>17</sup>

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<sup>1</sup> A.23-03-003, Application of Pacific Bell Telephone Company d/b/a AT&T for Targeted Relief From Its Carrier of Last Resort (COLR) Obligation and Certain Associated Tariff Obligations (“Application”), filed March 3, 2023

The Commission's COLR requirements are the foundation of the Commission's universal service policy, i.e. ensuring that every customer is able to obtain voice service. "[T]he purpose of the COLR idea is to ensure that there is a public utility which is obligated to serve all the customers in its service area who requests service."<sup>18</sup> The Commission made clear that this universal service requirement is not limited to underserved or unserved populations, or low income populations, but rather to "all customer segments" in the providers' service territory.<sup>19</sup>

AT&T's argument that the Commission should grant its Application because "virtually every customer" in AT&T's service territory can choose a different provider is incorrect and a misinterpretation of a basic tenet of the Commission's COLR precedent as explained above. As AT&T's Application acknowledges, none of AT&T's competitors are required to provide service to anyone in their service territory.<sup>20</sup> <sup>2</sup>

The need for COLR has not diminished. It would be a violation of Commission responsibility to throw Californians to the vagaries and uncertainties of the market place for essential telephone service. Continued COLR is essential to ensure that voice service and 911 access and even internet service is available to all.

Further, what AT&T seems to propose is ditching a regulated service and dumping the public into a new unregulated landscape where the public is unprotected. That is unacceptable and no choice at all.

For these reasons, AT&T application should be rejected.

#### B. The lack of notice to customers of AT&T's Application

I received no notice in my bills of AT&T's impending application in my March bill, nor any notice of AT&T's filing in my April, May or June bills. I was not alone. Customers have been blindsided by this application, and the lack of notice has foreclosed the opportunity to protest and participate for many members of the public. A mailer by TURN was the only notice I received on this situation, yet TURN staff were unfamiliar with AT&T's application and misdirected me. Only after contacting Mark Toney did I get information on this docket.

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<sup>2</sup> Protest, p . 6

This lack of notice is disturbing and unacceptable, especially in light of the extensive serious issues involved in POTS/copperline systems. By not noticing customers, AT&T has shut them out from standing and participation in a critical and essential infrastructure proceeding.

C. Copperline as the only appropriate voice and internet service for most EMF-disabled persons

Throughout its Application, AT&T continually talks about voice alternatives, but alternatives must be appropriate, adequate, and equal. Destroying the copperline system would deprive many AT&T customers of the only service they can use.

But far more serious: disabled Californians, injured by EMF and radio frequency radiation (EMF-RFR) or who have other EMF-sensitive medical conditions require and rely on copper landlines for the safest, lowest EMF voice service and which will reliably provide voice and DSL connection and 911 service during disasters and extended power outages. AT&T does not mention this population in its application. This population may be 3-5% of the population or more of Californians.

AT&T is fully aware of its obligations under ADA and to provide accessible utilities to customers. It has additional obligations under COLR, which it now wants to be free to, that prohibit discrimination.

This is a critical threshold issue that has been ignored in AT&T's application. AT&T states, "a grant of the Application would harm no one..." This absurd and utterly false statement ignores years of public testimony to AT&T personnel and in their presence, including special panels of EMF-disabled persons and disabled accommodations for these disabled persons at hearings on Senate Bill 649 in 2017, a bill incidentally sponsored by AT&T.

Testimony has also been provided to the Commission on this disabled population in relation to telephone service and other technology issues, including wireless smart meters.

This testimony includes the harmful effects that EMF and RF exposure have on these disabled persons, the financial burdens and costs that they must resultantly bear, including homelessness and loss of jobs, and the low EMF environments they have worked to create for themselves.

Alternatives or options for customers must be appropriate, but they are inadequate for the EMF disabled. Time frames for migration are irrelevant if there is no adequate, suitable alternative to move to.

Copperline landlines are the only adequate service for these disabled individuals. It is completely false that most of these individuals can “choose” a different provider. These disabled people have no other options or choices. AT&T’s application would deprive them of voice and internet service, and could exacerbate their disability. Yet, despite AT&T’s knowledge of this population and its needs, a group that was partially responsible for the defeat of AB 2395 in 2016, AT&T ignores its special needs and in its application, blatantly discriminating against this large and growing group of Californians essentially standing in front of them. For this reason, the Commission must deny AT&T’s application.

D. AT&T’s state subsidies require it to comply with California’s anti-discrimination laws

AT&T admits it has received considerable California subsidies, and as such, the Commission must make sure that AT&T is complying with state anti-discrimination mandates. These laws are at least equivalent to the federal Americans with Disabilities Act and ADAA, and the FHA/Fair Housing Amendments Act and may be more protective

These laws include:

Civil Code 51

(a) This section shall be known, and may be cited, as the Unruh Civil Rights Act.

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

AT&T’s application would deprive EMF-disabled Californians of full and equal services and facilities.

Civil Code 54.1

(a) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) As used in this section, "telephone facilities" means tariff items and other equipment and services that have been approved by the Public Utilities Commission to be used by individuals with disabilities in a manner feasible and compatible with the existing telephone network provided by the telephone companies. (emphasis added)

Disabled persons have the right to the same full and equal access and use as the general public, including to telephone facilities, which granting AT&T's application would deny.

Public Utilities Code 453(a and b)

(a) No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage.

(b) No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of ancestry, medical condition, marital status or change in marital status, occupation, or any characteristic listed or defined in Section 11135 of

the Government Code. A person who has exhausted all administrative remedies with the commission may institute a suit for injunctive relief and reasonable attorney's fees in cases of an alleged violation of this subdivision. If successful in litigation, the prevailing party shall be awarded attorney's fees.

This is a comprehensive prohibition against any preference, any advantage, any prejudice, any disadvantage to any person or corporation. Public utilities are prohibited from discriminating against any person in how they do business. AT&T's application disadvantages EMF-disabled individuals by not allowing them to have copperline service -- the only telephone and internet service they can use. Granting AT&T's application would give preference and advantage to AT&T in violation of this law. There is no exemption or exception to this state law. 453(a) also prohibits the CPUC from orders that discriminate against or for persons and corporations, and a decision approving AT&T's application would so discriminate.

There is also evidence that copperline customers are currently paying higher rates for telephone service, compared to other customers. To the extent that these customers are disabled and this is service they require, this could be considered a surcharge which is not allowed by the law.

#### Government Code Section 11135

(a) No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the



laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) The protected bases referenced in this section have the same meanings as those terms are defined in Section 12926. (emphasis added)

Government Code Section 12926 (partial)

(m) “Physical disability” includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity.

...

(n) Notwithstanding subdivisions (j) and (m), if the definition of “disability” used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (j) or (m), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (m).

As previously stated, AT&T receives state subsidies, and therefore, it cannot discriminate against EMF-disabled persons. However, this application and its requested actions discriminate against these person by depriving them of their telephone service. On this basis, this application must be denied.

The Fair Housing Amendments Act, Section 804. [42 U.S.C. 3604] - excerpt:

Discrimination in sale or rental of housing and other prohibited practices As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful--

...(f)

(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of--

(A) that buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of--

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes--

...(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling;

(emphasis added)

Telephone service is a necessary service provided to a dwelling. AT&T's application violates fair housing provisions by discriminating against EMF-disabled persons in the telephone and internet services it provides to dwellings, and this application must be denied.

E. Copperline must be retained and maintained to prevent redlining

EMF-disabled persons are protected from discrimination, including housing discriminating. Being free and equal persons, they have the right to relocate in California and live in any community they wish without restriction and without discrimination, just as fair

housing rules require. Adequate, appropriate telephone facilities that are safest for them to use must then be available throughout the state. AT&T's application indirectly results in housing discrimination and must be denied on this basis, because it would redline communities against these protected persons.

#### F. Copperline/POTS system is essential infrastructure

Communication is one thing guaranteed by the exemplary copperline POTS system, created and maintained for years by experts that ensure public safety and connectivity. This is a premier system. Copper-based network maintained, as AT&T states, "throughout its service territory" (p. 1) is the resilient communication backbone for everyone for voice, DSL, and other essential systems.

Let's be clear: this is the public's infrastructure. The public paid for it through rates, through tax subsidies and incentives to build it, and through funding the CPUC to regulate it. No one – no agency and no person -- has the right to strip from this state this essential infrastructure that all segments of society rely on, from government agencies to emergency personnel to individual members of the public.

The POTS system is a marvel -- simultaneously simple and complex. It is an amazing engineering feat, conveying voice reliably and securely across distance under the most adverse of conditions. It is a superiorly hardened system, built, protected, and powered so that it can withstand severe disasters including earthquakes, hurricanes, floods, and fires, and continue to provide reliable voice connection under the most dire circumstances. There is nothing comparable to it in terms of durability and reliability.

This premier communications system is what AT&T wants to eliminate which the federal government required to be delivered to all people and businesses and spent considerable public tax dollars subsidizing.

My copperline handset never loses power unless the telephone line is physically taken down. A central 49V of electricity keeps the entire copperline POTS network alive, with backup batteries constantly kept charged that can last a minimum of 1-2 weeks, and generally for several months of no electricity, powering all the phones in the system for voice and 911 service.

By contrast, wireless devices quickly run out of power or battery life, and then they are dead, providing no phone service and no 911 service. These devices must be nearly constantly

kept charging because of their huge energy demands, including frequent check-ins with the nearest cell tower and with all the apps on the phones. This fragile system is at the whim of the grid, and especially with PG&E and other California utility company “public safety power shutoffs” and fast shut-off fuses, power insecurity is the new norm for California residents and businesses.

AT&T’s ridiculous falsehoods to devalue this system so it can abandon it should be ignored, and the CPUC should deny AT&T’s application in order to protect this vital infrastructure.

G. Loss of copperline customers was encouraged and often was not voluntary

The public – which AT&T inaccurately reduces to mere “consumers” – wants a dependable, reliable, safe communication system first and foremost. However, the market including AT&T has urged the public relentlessly through expensive marketing campaigns, to “cut the cord” and adopt wireless or choose VoIP options, and without full disclosure of the difference in quality.

Service quality and outages, poor maintenance, and increased cost to the public, have caused many to reluctantly abandon AT&T.

AT&T’s poor maintenance and service quality includes service outages, cross talk between lines, noise and static, unmaintained utility boxes, and in my city, an outdoor telephone wiring switch cabinet in my city that was hit by a vehicle and severely damaged, which AT&T left unrepaired, its equipment completely exposed and unsecured, from November 2022 through approximately February 2023, open to the worst of torrential rains this winter. AT&T only repaired it after the rains were over.

AT&T has already been called on the carpet for allowing service outages and maintenance issues, and now properly maintaining these critical lines, creating a pattern of serious service quality issues that never existed before. Presumably this was also a stick to persuade customers to unsubscribe.

The cost of copperline service has also risen, often making wireless or VoIP options budgetary choices.

AT&T customer service personnel have also told members of the public requesting copperline service that it is not available. How much decreased demand is actually due to misinformation from AT&T's own staff, which may be intentional discouragement?

Much of AT&T's application reads like marketing PR, and unfortunately, it is replete with false statements, misrepresentation of realities, and pejoratives used to describe the superior POTS system, which the Commission should disregard and deny AT&T's application.

#### H. "New" technologies and copperline elimination create environmental damage and waste

Technological changes are a boon for companies to increase their profitability. but they have exacted a horrendous toll on the environment. The Thacker Pass lithium mine is one example of the wastefulness and impact of this technology's requirements. And the current models are trashed when companies no longer provide "support" – planned obsolescence on steroids. This recent article reported on school districts throwing out perfectly functional Chromebooks.<sup>3</sup>

AT&T's proposal will dramatically increase waste, including the large scale trashing of the POTS circuitry and wiring, and the planned obsolescent waste of VoIP and wireless systems and their other environmental costs. For this reason, the Commission should deny AT&T's application.

#### I. AT&T's accrued benefits from COLR

In its Application, AT&T proposes pulling the plug on over 1 million accounts, affecting several million Californians. AT&T has derived significant financial and political benefit from its COLR/monopoly status. This status is a critical part of its history and foundation to gain its current corporate strength and brand familiarity and strength.

AT&T has built a considerable reputation and economic clout from being the trustee and guardian of this powerful system.

The example of co-ownership by AT&T of utility poles is one indication. The designation of its chief lobbyist in Sacramento for many years was consistently designated in the

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<sup>3</sup> <https://www.montereyherald.com/2023/06/24/should-laptops-expire-campaign-aims-to-make-electronics-last-longer-to-save-money-and-the-planet/>

top 15 most powerful people in the state by CalMatters is another. And the 2014 Los Angeles investigative article on AT&T and state legislators is another. .<sup>4</sup>

Subsidies have been provided as a result of corporate lobbying activities, campaign contributions, and agency revolving doors with the same interest groups and companies that will receive the subsidies, to “deploy” new products and create planned obsolescence for established products.

AT&T notes that it served everyone “in exchange for guaranteed returns on investment”. But this equipment has been fully depreciated. .

Now AT&T is seeking to dispossess all of us of this incredible foundation service, while retaining all the benefit this system has provided, including presumably cashing in on the assets attached to it, which the public, which paid for it, should receive.

Despite deriving significant and long-term benefit from its monopoly status, even at the expense of the public, AT&T now wants to be free from its inherent responsibilities. The Commission should deny AT&T’s application.

### III. Procedural Issues

At this time, the only procedural requests I make is first, to delay public participation hearings until such time as the public has had time to learn of AT&T’s application, since it has not been informed to date. Though I see no general problems with the suggestions made by TURN and CforAT, August PPHs would be too soon and also would be in the midst of summer when people have other responsibilities particularly regarding their families. So I request that Public Participation Hearings are delayed at least until September, and October would be preferable.

Secondly, I request that all hearings have remote access to guarantee access to all who are EMF-disabled such as myself. Third, I request that any meet-and-confer conferences are arranged by the CPUC and that these conferences as well as settlement conferences have a neutral moderator and all parties are present together at each conference, not siloed. I request remote access hearings and conferences throughout this proceeding as a disabled accommodation for me and others like me, due to the wireless EMF/RF emissions at the CPUC and surrounding area, and lack of white paths.

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<sup>4</sup> [www.latimes.com/news/local/la-me-att-20120422,0,4280264.story](http://www.latimes.com/news/local/la-me-att-20120422,0,4280264.story)

#### IV. Conclusion

There are no alternatives to substantial numbers of California customers for telephone voice service. Copperline retirement will have devastating effects on the public including seniors and those who are disabled, especially those disabled by electromagnetic sensitivities (EMS). COLR status must be continued for AT&T.

For all these reasons, I request that the Commission deny AT&T's application.

Dated: June 30, 2023

Respectfully submitted,

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