

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Evaluate  
Telecommunications Corporations Service  
Quality Performance and Consider  
Modification to Service Quality Rules.

Rulemaking 11-12-001

**PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T  
CALIFORNIA (U 1001 C); AT&T CORP., F/K/A AT&T COMMUNICATIONS  
OF CALIFORNIA, INC. (U 5002 C); TELEPORT COMMUNICATIONS AMERICA,  
LLC, F/K/A TCG SAN FRANCISCO (U 5454 C); AND AT&T MOBILITY LLC  
(NEW CINGULAR WIRELESS PCS, LLC (U 3060 C); AT&T MOBILITY WIRELESS  
OPERATIONS HOLDINGS, INC. (U 3021 C); AND SANTA BARBARA CELLULAR  
SYSTEMS LTD. (U 3015 C)) REPLY TO OPENING COMMENTS ON PROPOSED  
DECISION OF PRESIDENT PICKER, MAILED APRIL 17, 2015**

DAVID P. DISCHER

AT&T Services, Inc.  
525 Market Street, Suite 2027  
San Francisco, CA 94105  
Tel.: (415) 778-1464  
Fax: (415) 543-0418  
E-mail: david.discher@att.com

*Attorney for AT&T*

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Pacific Bell Telephone Company d/b/a AT&T California (“AT&T”) hereby submits its Reply to Comments regarding the Proposed Decision of President Picker, mailed April 17, 2015 (“PD”).

## **I. INTRODUCTION**

Deferring the network examination is prudent and logical. The Commission presently has before it a host of proposals to modify the metrics and proposals regarding penalties, as well as proposals to completely eliminate the metrics. Waiting until the current issues are decided only makes sense. Moreover, the Staff Report finds that carriers reporting G.O. 133-C results are consistently meeting the metric measuring reports of trouble within their networks. This network performance should cause the Commission to reconsider the need for the examination in any event.

## **II. ORA AND JOINT CONSUMER AND LABOR GROUPS RESORT TO MISCHARACTERIZING THE PROPOSED DECISION.**

The comments of ORA and Joint Consumer and Labor Groups<sup>1</sup> are primarily premised on the claim that the PD is “reversing” the Commission’s prior decision calling for examination of AT&T’s and Verizon’s networks. This claim is false. First, the PD states that it is “deferring” the examination pending the resolution of what, if any, changes are made to the current metrics.<sup>2</sup> As the PD explains, the ultimate service quality rules that are adopted, and the possibility of

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<sup>1</sup> Opening Comments of Center for Accessible Technology, Communications Workers of America, Consumer Federation of California, the Greenlining Institute and The Utility Reform Network on the April 17, 2015 Proposed Decision Deferring Network Study Requirement Adopted in Decision 13-02-023 (“Joint Consumer and Labor Groups Opening Comments”), pp. 1, 4, 6-7 (May 7, 2015); Comments of ORA on the Proposed Decision of Commissioner Picker Deferring Network Study Requirement Study Adopted In Decision 13-02-023 (“ORA Opening Comments”), pp. 1, 5, 8-10 (May 7, 2015).

<sup>2</sup> PD, p. 5 (Finding of Fact 4).

penalties, may affect the need for the examination.<sup>3</sup> Consequently, deferring the examination until those issues are decided is logical and prudent.

Second, Ordering Paragraph 4 of D.13-02-023 expressly gives the Assigned Commissioner the authority to do what is being proposed in the PD: “4. The assigned Commissioner and assigned Administrative Law judge for this proceeding may modify the study’s scope or objectives as necessary to ensure a complete record.”<sup>4</sup> Given Ordering Paragraph 4, the contention that the deferral of the examination reverses D.13-02-023 is baseless.

Third, the Commission is free to alter its decisions so long as it gives notice and an opportunity to the parties in this proceeding to be heard.<sup>5</sup> That legal requirement is met by this comment cycle.

### **III. THE PD HAS LEGALLY SUFFICIENT FACTUAL FINDINGS.**

The comments of ORA and Joint Consumer and Labor Groups contend the PD is deficient by lacking a factual basis. The PD concludes that if penalties are adopted, it is possible the network examination would be unnecessary because such penalties “would be based on operational outcomes, not detailed examination of network facilities.”<sup>6</sup> Additionally, AT&T and others have argued for eliminating of the metrics altogether; this also would make the network examination unnecessary. Thus, Finding of Fact 4 is appropriate: if any service quality rule changes are adopted in this proceeding, the study ordered in 2013 may no longer be necessary.

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<sup>3</sup> *Id.* at 4.

<sup>4</sup> *Re Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules*. Decision No. 13-02-023, *Decision Affirming Provisions of the Scoping Memo and Ruling*, 2013 WL 980667 (Cal.P.U.C. Feb. 28, 2013), *mimeo*, p. 9 (Ordering Paragraph 4).

<sup>5</sup> Cal. Pub. Util. Code, § 1708 (“The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision.”).

<sup>6</sup> PD, p. 5 (Finding of Fact 3).

On the other hand, if the Commission agrees with AT&T and eliminates service quality metrics altogether, such an action of necessity would naturally obviate the need for a network examination. Moreover, the proposals from Commission Staff and other parties to modify the metrics and adopt penalties do not require a network examination to be completed before the Commission decides the pending issues. Therefore, whichever way the Commission ultimately rules in this case, these facts and logical conclusions provide a reasoned basis for deferring the examination until the Commission acts on potential modifications of the metrics and proposals for fines.<sup>7</sup> While AT&T believes a network examination is entirely unnecessary in this case, the fact is, if the Commission at some point in the future, for justifiable reasons, decides to order an examination, nothing in the PD stops it from considering such action. Consequently the claims that the PD is lacking in the necessary legal support are false.

#### **IV. THE COMMENTS ALLEGING AT&T'S AND VERIZON'S NETWORKS ARE POORLY MAINTAINED ARE WRONG.**

The comments of ORA, Joint Consumer and Labor Groups, and CALTEL mistakenly claim AT&T and Verizon's metrics are so poor that the network examination must be done. They rely on a few pictures of certain isolated conditions, and the Staff Report, for their contentions. Of course, there may always be some equipment in the field in need of repair. AT&T's network has over 220,000 miles of copper sheath and fiber, attached to 2.1M poles, and equipment servicing all those miles of plant. A few pictures do not demonstrate systemic disrepair. Moreover, the claim that the Staff Report shows the need for the examination is absurd and completely wrong. On balance, the Staff Report actually shows AT&T's and Verizon's networks are providing quality service.

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<sup>7</sup> See, e.g., *California Motor Transport Co. v. Public Utilities Com'n.* (1963), 59 Cal.2d 270, 273; *California Manufacturers Assoc. v. Public Utilities Com'n.* (1979), 24 Cal.3d 251, 258-59.

The measure the Staff Report found AT&T and Verizon not meeting is the Out of Service metric. This does not show the health of the network; it shows how long it takes to restore service. There is a metric that does show the state of the network, and that is the Customer Trouble Report or Trouble Reports Per Hundred Lines metric. This metric measures the actual problems reported by customers and it shows the likelihood that a customer goes out of service in the first place. A network that is in disrepair and providing a poor quality of service will generate more trouble reports compared to a network operating well and providing good quality of service. The Staff Report found, “Both URF Carriers and GRC ILECs consistently met the minimum standards established in the Customer Trouble Report measure.”<sup>8</sup> AT&T has consistently exceeded this measure:

<b>Customer Trouble Report</b>	<b>Standard</b>	<b>Years</b>				
		<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>Offices with &gt; 3000 Lines</b>	6	1.69	1.48	1.34	1.24	1.33
<b>Offices with 1001 - 2999 Lines</b>	8	2.47	2.24	1.97	1.7	2.93
<b>Offices with &lt; 1000 Lines</b>	10	3.06	2.71	2.4	2.11	2.67

This is the metric that shows the condition of the network. The fact AT&T and Verizon have “consistently” met this measure completely debunks the claims that our networks are in disrepair and in need of examination.

## **V. CONCLUSION**

The claims of legal error in the PD are wrong. The network examination should be deferred pending the Commission’s actions on the metrics and penalties. It is entirely possible that a decision on those issues would make the examination unnecessary. Regulatory efficiency

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<sup>8</sup> Staff Report, p. 9.

would be served by deferring the examination. Moreover, the current metric on Trouble Reports Per Hundred Lines is being met today and has been in the past. This proves the networks are not in the state of disrepair as asserted by opponents to the PD. The conclusions in the Staff Report actually call for rescinding the examination altogether, and the PD should be modified to rescind the call for an examination, not just defer the examination.

Dated this 12<sup>th</sup> day of May 2015 at San Francisco, California.

Respectfully submitted,

/s/

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DAVID P. DISCHER

AT&T Services, Inc.  
525 Market Street, Suite 2027  
San Francisco, CA 94105  
Tel.: (415) 778-1464  
Fax: (415) 543-0418  
E-mail: [david.discher@att.com](mailto:david.discher@att.com)

*Attorney for AT&T*