



**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.

R.11-12-001  
(Issued December 1, 2011)

**REPLY COMMENTS OF THE CALIFORNIA ASSOCIATION OF  
COMPETITIVE TELECOMMUNICATIONS COMPANIES TO  
ASSIGNED ADMINISTRATIVE LAW JUDGE'S RULING AND  
COMMUNICATIONS DIVISION STAFF REPORT**

April 17, 2015

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Pursuant to the schedule established in the Assigned Administrative Law Judge's (ALJ's) Ruling dated February 2, 2015 requesting comments on a report of the Commission's Communications Division ("CD Staff Report"), the California Association of Competitive Telecommunications Companies ("CALTEL") responds to the opening comments of other parties in this proceeding.

## **I. INTRODUCTION**

CALTEL has reviewed the opening comments of the other parties, and responds to those of the Joint Consumers (i.e. Center for Accessible Technology, The Greenlining Institute and The Utility Reform Network), Cox California Telcom, LLC dba Cox Communications (Cox), Communications Workers of America District 9 (CWA), Pacific Bell Telephone Company dba AT&T California and other AT&T affiliates and subsidiaries (AT&T), Citizens Telecommunications Company of California Inc., d/b/a Frontier Communications Company of California, and Frontier Communications of the Southwest Inc. (Frontier), the Office of Ratepayer Advocates (ORA), and Verizon California Inc. (Verizon).

## **II. DISCUSSION**

### **A. Joint Consumers**

CALTEL agrees in all respects with the comments of the Joint Consumers.

### **B. Cox**

CALTEL is sympathetic to Cox's primary concern: i.e. that it is, and has been since the inception of this proceeding, inefficient and unfair to address problems caused by the business decisions of the two major ILECs by imposing new measures and penalties on the entire industry:

Cox and other carriers that routinely meet the existing service quality measures should not be required to allocate *more* resources to comply with *more* rules because of business decisions that AT&T and Verizon have respectively made with regard to compliance with

service quality measures. The Commission forcing AT&T's and Verizon's competitors to expend more resources on regulatory compliance as a result of AT&T's and Verizon's repeated, non-performance is anti-competitive, unreasonable, otherwise unlawful, and just as important, will necessarily harm consumers and negatively impact the competitive market.<sup>1</sup>

CALTEL could not agree more. If it is not too late to transition this proceeding to an Order Instituting Investigation (OII), as CALTEL originally proposed, CALTEL urges the Commission to do so.

**C. CWA and Frontier**

CALTEL wants to thank CWA for providing more pictures of degraded AT&T outside plant—a reminder that a picture is worth a thousand words. CALTEL only wishes that CWA had also provided pictures of degraded Verizon outside plant in order to show Frontier the state of the infrastructure it is proposing to acquire from Verizon California, and to help Frontier to pivot off of its “competition is sufficient” rhetoric.<sup>2</sup>

**D. AT&T**

CALTEL found AT&T's comments about the wholesale Performance Improvement Plan (PIP) very interesting.<sup>3</sup> Who knew that AT&T was such a fan of the PIP? While AT&T correctly states that the “basic premise of the PIP is to apply remedy payments when wholesale service falls below approved levels to incent the carrier to improve service to reasonable and acceptable levels,”<sup>4</sup> it fails to show how the goals of the remedy plan proposed in the CD Staff Report are any different. Instead, it is clear from AT&T's discussion that the real difference hinges on AT&T's view of its ability to achieve the underlying measures. In the case of the PIP,

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<sup>1</sup> Cox opening comments at p. 2.

<sup>2</sup> Frontier opening comments at p. 5. “Rather, the approach should be to evolve towards less regulation, recognizing that the marketplace and competitive forces will drive companies to better performance in order to retain and gain customers.”

<sup>3</sup> AT&T opening comments at pp. 18-20.

<sup>4</sup> *Id.* at p. 18.

CALTEL again contends that AT&T considers the wholesale measurements achievable because they are primarily based on parity with retail. As CALTEL explained in its opening comments, “CLECs negotiated wholesale performance measures to rely on receiving parity with retail performance because they never imagined that ILECs would ever provide such consistently poor performance to their own customers.”<sup>5</sup>

AT&T also appears to misconstrue proposals in the Staff Report to use average monthly misses as a concession to AT&T’s advocacy to change out the current Out of Service metric with one that is based on average repair times.<sup>6</sup> Although CALTEL has supported adoption of a Mean Time to Repair (MTTR) type of measurement over the current 90% within 24 hours Out-of-Service measure at an earlier point in this proceeding,<sup>7</sup> the CD Staff Report does not appear to be suggesting making a change at this point. Instead, what CALTEL believes that Staff was proposing is to average daily performance over the period of a month in order to determine monthly status and associated penalties, which AT&T actually appears to understand based on a different section of its comments.<sup>8</sup>

Finally, AT&T does appear to have some valid questions about calculation of these monthly averages and penalties. CALTEL believes that its proposal in opening comments to provide actual vs. hypothetical penalty data for the past three years<sup>9</sup> would be useful in addressing AT&T’s (and several other parties’) questions in this regard.

#### **E. ORA**

Unfortunately, many of the modifications being proposed by ORA are incomprehensible,

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<sup>5</sup> CALTEL opening comments at p. 4.

<sup>6</sup> AT&T opening comments at pp. 17-18.

<sup>7</sup> CALTEL reply comments on OIR, dated March 1, 2012, at pp. 9-10.

<sup>8</sup> AT&T opening comments at p. 7 and fn 10.

<sup>9</sup> CALTEL opening comments at pp. 5-6.

and as such, do not seem helpful in moving this protracted proceeding forward at this juncture. For example, it appears that ORA is proposing that the current Small CLEC exemption be eliminated,<sup>10</sup> but no rationale is provided for why this is needed and how this change would be a good use of small carriers' and the Commission's time and resources. ORA is also proposing to remove the current carrier exemptions on the two installation measurements, again with little rationale or cost/benefit analysis, at least with regards to CLECs.<sup>11</sup>

ORA also appears to be proposing changes to the Trouble Report measure that would somehow separate out trouble reports associated with major outages.<sup>12</sup> However, the proposal as documented appears to describe a report vs. a metric. If it is ORA's intent to describe a report instead of a metric, it appears to be similar to the new reporting requirements included in the CD Staff Report. But if it truly intend to create a new breakout for trouble tickets that are now included in the current measurement, CALTEL does not understand the value of this breakout, and based on CALTEL's Executive Director's extensive experience in developing and negotiating wholesale performance measurements, such a breakout would have to be manually calculated for every trouble report.

CALTEL similarly is bewildered about the purpose or methodology behind ORA's new proposal to break out trouble reports for DS3 outages of over 150 minutes.<sup>13</sup> This proposal appears to be associated with outage reporting criteria that apply to the FCC NORS rules, and is not seeking inclusion of DS3 trouble tickets in the numerator or denominator of any measurement. But the lack of clarity leads to many unanswered questions and makes it difficult

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<sup>10</sup> ORA opening comments at pp. 3, A-3 through A-7.

<sup>11</sup> *Id.* at pp. 32-33.

<sup>12</sup> *Id.* at pp. 30-32 and Appendix C.

<sup>13</sup> *Id.* at p. 30 and A-4.

to respond in any detail.

**F. Verizon and Frontier**

Finally, Verizon and Frontier state that the Commission should hold workshops to discuss the Staff Proposal.<sup>14</sup> While CALTEL is always willing to participate in workshops in order to assist the Commission in discussing technical issues or evaluating competing proposals, there are also many topics in this proceeding that CALTEL believes would not be a productive use of Commission or party resources, including but not limited to reiteration of arguments advanced by AT&T and Verizon expert witnesses regarding competition. Therefore, CALTEL respectfully requests that any workshops that are scheduled be narrowly focused and aimed at moving this proceeding forward.

**III. CONCLUSION**

CALTEL appreciates the opportunity to comment on the opening comments of other parties, and looks forward to working with CD Staff and other parties on further refinements to the service quality measurements and proposed customer refunds and corporation fines.

Respectfully submitted,

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<sup>14</sup> Frontier opening comments at pp. 3, 10. Verizon opening comments at p. 17.