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Counties

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PACIFIC BELL TELEPHONE
COMPANY d/b/a AT&T
CALIFORNIA,

Plaintiff,

v.

JOHN REYNOLDS, in his official
capacity as President of the California
Public Utilities Commission;
DARCIE L. HOUK, KAREN
DOUGLAS, MATTHEW BAKER, and
CHRISTINE HARADA, in their official
capacities as Commissioners of the
California Public Utilities Commission;
ROB BONTA, his official capacity as
Attorney General of the State of
California,

Defendants.

Case No. 3:26-cv-03148-LL-JAC

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION TO
INTERVENE AS DEFENDANTS
AND SET TIME TO RESPOND
TO COMPLAINT**

Date: August 19, 2026
Courtroom: 14B
Judge: Hon. Linda Lopez

PER CHAMBERS RULES, NO
ORAL ARGUMENT UNLESS
SEPARATELY ORDERED BY THE
COURT

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1 **I. INTRODUCTION**

2 Pursuant to Federal Rule of Civil Procedure 24, Rural County
3 Representatives of California (RCRC), The Utility Reform Network (TURN),
4 Communications Workers of America (CWA), and the California State Association
5 of Counties (CSAC) (collectively, Proposed Intervenors) respectfully request to
6 intervene in this action as of right or permissively to defend California's carrier-of-
7 last-resort (COLR) rules. Proposed Intervenors also respectfully request that the
8 Court set their deadline to respond to the complaint to be 14 days after the Court
9 issues its order on Plaintiff's motion for preliminary injunction, the same deadline
10 as for Defendants.

11 As part of a multi-prong attack on California's regulatory authority and
12 telecommunications access for all California residents launched in federal court and
13 at the Federal Communications Commission (FCC), Pacific Bell Telephone
14 Company d/b/a AT&T California (AT&T) filed this action to strip away the power
15 of the California Public Utilities Commission (CPUC) to guarantee that basic,
16 reliable telephone service is available to all California residents in all regions of the
17 state. The Court has already granted Proposed Intervenors leave to file an amicus
18 brief in support of the preliminary injunction opposition filed by defendant CPUC
19 Commissioners and the California Attorney General (collectively, State Parties).
20 Dkt. No. 43. Proposed Intervenors have now determined that full participation in
21 this action is necessary to protect their distinct interests in the continued vitality of
22 California's COLR rules. Circumstances have changed because some of AT&T's
23 related requests before the FCC have been approved. Further, as Proposed
24 Intervenors developed their responses to AT&T's filings in this and other
25 proceedings, including replying to AT&T's opposition to Proposed Intervenors'
26 motion for leave to file an amicus brief, it became apparent to Proposed Intervenors
27 that party status is imperative, especially regarding possible settlements and the
28 ability to seek appellate review.

1 In this case, AT&T is threatening Proposed Intervenor's strong interest in
2 ensuring all California residents have access to viable means of communication, an
3 interest for which Proposed Intervenor's have advocated across federal and state
4 administrative proceedings. Although the State Parties share Proposed Intervenor's
5 goal of defending California's COLR rules, the State Parties' arguments will be
6 focused on preserving state regulatory authority and the overall regulatory scheme,
7 rather than on Proposed Intervenor's particular interests. Indeed, AT&T
8 acknowledged that Proposed Intervenor's presented different arguments in their
9 amicus brief and opposed consideration of those arguments on that basis.
10 Accordingly, the Court should grant intervention as of right to allow Proposed
11 Intervenor's to defend their interests. Alternatively, the Court should exercise its
12 discretion to grant permissive intervention because of the common questions of law
13 and fact in the defenses Proposed Intervenor's will raise.

14 RCRC is an association of forty rural California counties,¹ and its Board of
15 Directors comprises one elected supervisor from each of those member counties.
16 Incorporated in 1959, RCRC is a nonprofit, mutual benefit corporation that works
17 with its membership to advocate on behalf of rural issues and provide the rural
18 county perspective on a myriad of topics at the state and federal levels through both
19 the legislative and regulatory processes. A core tenant of RCRC is to promote a
20 greater understanding among policy makers about the unique challenges that face
21 California's small population counties.

22 TURN is a California nonprofit organization that champions the highest
23 quality phone service at the lowest prices possible for residential customers, low-
24 income households, underserved communities and small businesses. TURN

25 ¹ RCRC's members are the Counties of Alpine, Amador, Butte, Calaveras, Colusa,
26 Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Kings, Lake, Lassen,
27 Madera, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada,
28 Placer, Plumas, San Benito, San Luis Obispo, Santa Barbara, Shasta, Sierra,
Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and
Yuba.

1 promotes racial and economic equity advancement and accessibility through
2 regulatory and legislative work to achieve equitable, safe, reliable, resilient, and
3 affordable communication services. TURN advocates for policies that support the
4 widespread deployment of high-quality and affordable communications services.

5 CWA is a labor union representing workers in telecommunications and
6 technology, including approximately 12,000 workers who build, upgrade, and
7 service wireline and wireless telecommunications networks for providers in
8 California. CWA also represents workers in news media, broadcast and cable
9 television, the airline industry, public service, manufacturing, and other fields.

10 Established in 1895, CSAC is a nonprofit corporation governed by elected
11 county supervisors. CSAC serves as a unified voice of all 58 of California's
12 counties. CSAC serves California counties by developing and equipping county
13 leaders to better serve their communities; effectively advocating and partnering
14 with state and federal governments for appropriate policies, laws, and funding; and
15 communicating the value of critical work being accomplished by county
16 government.

17 **II. ARGUMENT**

18 **A. Proposed Intervenorers Are Entitled to Intervene as of Right**

19 A court must grant intervention when (1) the motion to intervene is timely,
20 (2) the parties seeking intervention "claim a 'significantly protectable' interest
21 relating to the property or transaction which is the subject of the action[,]" (3) the
22 disposition of the action may "as a practical matter impair or impede" the parties'
23 ability to protect their interest, and (4) the intervening parties' interest is
24 "inadequately represented" by the existing parties. *Wilderness Soc'y v. U.S. Forest*
25 *Serv.*, 630 F.3d 1173, 1177 (9th Cir. 2011) (en banc); Fed. R. Civ. P. 24(b)(2).
26 "[T]he requirements for intervention are broadly interpreted in favor of
27 intervention." *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9th Cir.
28

1 2004). “A public interest group is entitled as a matter of right to intervene in an
2 action challenging the legality of a measure it has supported.” *Idaho Farm Bureau*
3 *Fed’n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) (citing *Sagebrush Rebellion,*
4 *Inc. v. Watt*, 713 F.2d 525, 527 (9th Cir. 1983)).

5 **1. Proposed Intervenors’ Motion is Timely**

6 Proposed Intervenors have filed a timely motion to intervene at the outset of
7 this case. To determine timeliness, a court considers “the stage of the proceeding,
8 prejudice to other parties, and the reason for and length of the delay.” *Babbitt*, 58
9 F.3d at 1397. “[T]he mere ‘lapse of time alone is not determinative’ in the
10 timeliness inquiry.” *Friends of Del Norte v. Cal. Dep’t of Transp.*, No. 3:18-CV-
11 00129-JD, 2020 WL 4349811, at *1 (N.D. Cal. July 29, 2020) (quoting *Smith v.*
12 *L.A. Unified Sch. Dist.*, 830 F.3d 843, 854 (9th Cir. 2016)). In determining
13 timeliness, a court looks to “what ha[s] already occurred” by the time of a motion to
14 intervene. *League of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1303
15 (9th Cir. 1997) (emphasis removed).

16 Here, the case is in its earliest stages. The complaint was filed on May 20,
17 2026, less than two months ago. Dkt. No. 1. No answer to the complaint has yet
18 been filed, no scheduling order entered, no discovery taken. The Court has not
19 issued any substantive orders, including on AT&T’s request for preliminary
20 injunctive relief. See Dkt. No. 10. Proposed Intervenors filed their motion for
21 leave to participate as amici curiae on June 26, less than six weeks after the action
22 was filed, and this motion less than three weeks later. On July 9, 2026, the court
23 scheduled a hearing on AT&T’s injunction request and on July 13, the court
24 granted the State Parties additional time to respond to the complaint. See Dkt.
25 Nos. 37 and 41. Under similar circumstances, the Ninth Circuit has approved
26 intervention early in a case. *Babbitt*, 58 F.3d at 1397 (finding timely a motion to
27
28

1 intervene filed four months after the complaint and before a preliminary injunction
2 hearing).

3 AT&T will suffer no prejudice. The “only ‘prejudice’ that is relevant under
4 this factor is that which flows from a proposed intervenor’s failure to intervene after
5 he knew, or reasonably should have known, that his interests were not being
6 adequately represented—and not from the fact that including another party in the
7 case might make resolution more ‘difficult.’” *Smith*, 830 F.3d at 857 (quoting
8 *United States v. Oregon*, 745 F.2d 550, 552-53 (9th Cir. 1984)). Not only is this
9 case in its earliest stages, AT&T is already fully aware of Proposed Intervenors’
10 interest and arguments via their proposed amicus brief and motion seeking leave to
11 file it. Dkt. No. 33. As AT&T has observed, Proposed Intervenors have presented
12 their arguments related to the COLR rules in other fora, limiting any prejudice to
13 AT&T from novel theories at this juncture. *See* Opp. to Mot. for Leave to File
14 Amicus Brief (Amicus Opp.) at 4:5-16, Dkt. No. 34. Proposed Intervenors
15 presented their arguments as amici well before the Preliminary Injunction hearing
16 and AT&T has responded to those arguments. Amicus Opp. at 5-8; Dkt. No. 43 at
17 2:28-3:1 (“Plaintiff submitted responses to the proposed brief in its Opposition to
18 the Motion.”). No prejudice will result from allowing intervention.

19 Proposed Intervenors have not delayed (*contra* Amicus Opp. at 4),
20 particularly considering the stage of this case and the context of AT&T’s actions.
21 AT&T is engaged in a multi-prong, multi-forum assault on the CPUC’s regulatory
22 authority that has required parties defending the universal availability of basic
23 telephone service to proceed with haste in various venues to respond. Proposed
24 Intervenors are moving expeditiously to oppose AT&T on each front. On June 18,
25 Proposed Intervenors timely appealed the FCC’s Network Modernization Order,
26 upon which AT&T bases this suit. *See* Pet. for Review, *The Utility Reform*
27 *Network v. United States*, No. 26-3646 (9th Cir. June 18, 2026), Dkt. No. 1.1.
28

1 In addition to this action, on May 20, 2026, AT&T filed four requests with
2 the FCC, the first of which has already been granted, increasing the significance of
3 this case:

- 4 • AT&T filed two applications with the FCC seeking permission to stop
5 offering residential and business basic services to *all* customers in
6 California—many more customers than the grandfathered customers
7 described in AT&T’s complaint in this matter. Section 63.71
8 Applications of AT&T Services, Inc., on behalf of its affiliate, Pacific
9 Bell Telephone Company d/b/a AT&T California, Authority Pursuant
10 to Section 214 of the Communications Act of 1934, As Amended, to
11 Discontinue the Provision of Service, WC Dkt. Nos. 26-120 and 26-
12 121 (filed May 20, 2026). Proposed Intervenor TURN and RCRC
13 filed comments on June 15, 2026, and met with FCC staff on June 25,
14 2026, opposing these applications. Comments of the Utility Reform
15 Network and Rural County Representatives of California in the Matter
16 of AT&T Services, Inc.’s Section 214 Applications to Discontinue
17 Domestic Legacy Voice Service as Part of a Technology Transition,
18 WC Dkt. Nos. 26-120 and 26-121 (filed June 15, 2026); TURN and
19 RCRC’s Notice of Ex Parte Presentation, WC Dkt. Nos. 26-120 and
20 26-121 (filed June 25, 2026). On June 29, 2026, the applications were
21 granted by operation of the FCC’s rules. 47 C.F.R. § 63.71(f)(1).
- 22 • AT&T filed an application seeking forbearance of related requirements
23 imposed on AT&T as an Eligible Telecommunications Carrier.
24 Petition of AT&T for Forbearance Under 47 U.S.C. § 160(c) from
25 Requirements Imposed on Eligible Telecommunications Carriers by 47
26 U.S.C. § 214(e), WC Dkt. No. 26-123 (filed May 20, 2026). On
27 July 7, 2026, Proposed Intervenor TURN and RCRC filed comments
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opposing this petition. Comments of the Utility Reform Network, Rural County Representatives of California, and California Alliance for Digital Equity, WC Dkt. No. 26-123 (filed July 7, 2026); and

- AT&T filed a Petition seeking to preempt California’s COLR rules. Petition of AT&T for Preemption and Declaratory Ruling Regarding California’s Carrier of Last Resort and Related Requirements, WC Dkt. No. 26-125 (filed May 20, 2026). On July 7, 2026, Proposed Intervenor filed joint comments with additional parties opposing preemption as part of two coalitions. Comments of Rural County Representatives of California et al., WC Dkt. No. 26-125 (filed July 7, 2026); Comments of The Utility Reform Network et al., WC Dkt. No. 26-125 (filed July 7, 2026).

Declaration of Mark Toney (Toney Decl.) ¶¶ 9-13; Declaration of Leigh Kammerich (Kammerich Decl.) ¶¶ 13-17; Declaration of Frank Arce (Arce Decl.) ¶ 15; Declaration of Graham Knaus (Knaus Decl.) ¶ 9.

Further, changed circumstances justify Proposed Intervenor’s motion at this time. *See Smith*, 830 F.3d at 859 (determining timeliness based on a “change in circumstances”). The FCC’s June 29, 2026 granting, by operation of law, of AT&T’s Section 214 applications to discontinue its copper-based residential and business interstate service in most of California, has increased the importance of viable state regulatory protections for basic telephone service. Additionally, AT&T’s opposition to Proposed Intervenor’s participation as amici called into question Proposed Intervenor’s ability to participate in this case. *See Amicus Opp.* at 6 (arguing the court should not consider novel arguments of non-parties).

In sum, this motion is timely and will cause no prejudice. Proposed Intervenor filed their now-granted motion for leave to participate as amici curiae before the noticed hearing date on AT&T’s motion for preliminary injunction. Dkt.

1 No. 33; Dkt. No. 43. Proposed Intervenor observed in their motion that they
2 retained the right to seek leave to participate as parties should the circumstances
3 make such participation necessary to protect their interests. Dkt. No. 33-1 at 3:25-
4 4:2. Proposed Intervenor do not seek to alter the schedule for consideration of
5 AT&T's motion for preliminary injunction, but seek only the same deadline as for
6 the State Parties to respond to the complaint, i.e., 14 days after the Court issues its
7 order on AT&T's motion for preliminary injunction. See Dkt. No. 41. Thus,
8 Proposed Intervenor have acted promptly to protect their rights through
9 intervention. See *Frank's Landing Indian Cmty. v. Enlow*, No. 3:25-CV-05929-TL,
10 2026 WL 1678299, at *2 (W.D. Wash. June 10, 2026) (granting a motion to
11 intervene after consideration of a preliminary injunction and one year before trial).

12 **2. Proposed Intervenor Have a Significant Protectable**
13 **Interest in Maintaining the Basic, Essential Services**
14 **Guaranteed by the COLR Rules that AT&T Seeks to Enjoin**

15 Proposed Intervenor' and their members' and residents' need for essential,
16 basic communications protected by California's COLR rules and their advocacy for
17 the vitality of California's COLR rules demonstrate Proposed Intervenor' interest
18 in this action. Because this action directly challenges the COLR rules, Proposed
19 Intervenor' interests will be impaired by a disposition in AT&T's favor.

20 Determining whether an intervenor possesses an interest sufficient for
21 intervention calls for a "practical, threshold inquiry." *Greene v. United States*, 996
22 F.2d 973, 976 (9th Cir. 1993). It is sufficient for a proposed intervenor to show
23 (1) an interest "that is protected under some law," and (2) a relationship "between
24 its legally protected interest and the plaintiff's claims." *Donnelly v. Glickman*, 159
25 F.3d 405, 409 (9th Cir. 1998). Proposed Intervenor easily meet this practical test.

26 *First*, if enforcement of California's COLR rules were enjoined as to new
27 AT&T customers, Proposed Intervenor and their members could not be sure that
28 they would have access to essential life-saving communications services when

1 people move to new locations or offices where people live or work, nor could they
2 advocate at the CPUC for revisions and improvements to COLR rules with respect
3 to new customers. Toney Decl. ¶¶ 3-7; Kammerich Decl. ¶¶ 4-5, 7-11; Arce Decl.
4 ¶¶ 5-11, 16, 18; Knaus Decl. ¶¶ 3-5. Therefore, a judgment in favor of AT&T in
5 this action would impair their interests. *See Prete v. Bradbury*, 438 F.3d 949, 956
6 (9th Cir. 2006); *Sagebrush Rebellion*, 713 F.2d at 528. “[I]f an absentee would be
7 substantially affected in a practical sense by the determination made in an action, he
8 should, as a general rule, be entitled to intervene.” *Sw. Ctr. for Biological Diversity*
9 *v. Berg*, 268 F.3d 810, 822 (9th Cir. 2001) (quoting Fed. R. Civ. P. 24 advisory
10 committee’s notes to 1966 amendment). If AT&T expands this case to include the
11 discontinuance of services authorized by the FCC less than three weeks ago, the
12 harm will increase.

13 Proposed Intervenors’ members and residents and rely on California’s COLR
14 rules. These rules support the availability of affordable quality communication
15 service in rural areas, facilitate emergency and disaster communications, and ensure
16 access for people with disabilities and those who are economically disadvantaged.
17 Toney Decl. ¶¶ 4-7; Kammerich Decl. ¶¶ 4-5, 7-11; Arce Decl. ¶¶ 5-11, 16, 18;
18 Knaus Decl. ¶¶ 3-6. Therefore, Proposed Intervenors’ interest in ensuring broadly
19 available, dependable basic telephone service through California’s COLR rules is
20 sufficient to support intervention as of right. This interest is grounded both in the
21 universal service provisions of the federal Communications Act and California law.
22 *See* 47 U.S.C. §§ 214(e), 253(b), 254(b), 332(c)(3); Cal. Pub. Util. Code §§ 709,
23 871-884.5. Accordingly, Proposed Intervenors’ protected interest supports their
24 claim to intervention as of right. *See Citizens for Balanced Use v. Mont.*
25 *Wilderness Ass’n*, 647 F.3d 893, 897-98 (9th Cir. 2011) (finding sufficient an
26 interest in conserving wilderness character based on the Montana Wilderness Study
27 Act); *United States v. Carpenter*, 526 F.3d 1237, 1240 (9th Cir. 2008).

1 *Second*, Proposed Intervenor’s specific organizational interests, missions, and
2 advocacy demonstrate their interest in maintaining access to basic, essential
3 communications service guaranteed by California’s COLR rules. In particular,
4 TURN advocates for COLR to support the availability of high-quality, reliable
5 communications services for all California residents. Toney Decl. ¶¶ 3-7. Because
6 RCRC’s rural county members require access to adequate communications services
7 to perform their functions as local governments and to protect the interests and
8 public safety of their residents, RCRC advocates for regulations that require
9 offering of these services. Kammerich Decl. ¶¶ 3-5, 7-11. COLR requirements are
10 particularly important for rural communities, especially when disasters strike. *Id.*
11 Similarly, CSAC’s members share interests in reliable communications, especially
12 for emergency services and first responders. Knaus Decl. ¶¶ 3-6. CWA possesses
13 a unique interest insofar as it has members who service and maintain California’s
14 existing copper wireline networks and work in regions of the state from which
15 AT&T seeks to withdraw, putting at risk the jobs of its members and the quality of
16 the network they maintain. Arce Decl. ¶¶ 4-11. Further, because CWA
17 understands the importance of quality communications for all, it also advocates for
18 affordable reliable communications for low-income and rural populations. *Id.* ¶ 16.

19 Further, Proposed Intervenor have advocated, and are advocating, on behalf
20 of their interests in multiple administrative proceedings at the state and federal level
21 where AT&T has attacked, and is attacking, California’s COLR rules and its
22 authority to enforce those rules, thus endangering access by Proposed Intervenor,
23 their members and their residents. *See* Toney Decl. ¶¶ 8-20; Kammerich Decl.
24 ¶¶ 12-21; Arce Decl. ¶¶ 12-15, 16-17; Knaus Decl. ¶¶ 7-11. The Ninth Circuit has
25 approved motions to intervene in situations such as this one where organizations
26 seek to defend regulations for which they advocate. *See Idaho Farm Bureau*, 58
27 F.3d at 1398 (approving intervention by conservation groups, which were “active in
28

1 the proceeding” to designate an endangered species); *Sagebrush Rebellion*, 713
2 F.2d at 526-27 (approving intervention by the National Audubon Society, which
3 participated in the administrative process for establishing a conservation area).

4 Accordingly, Proposed Intervenor’s interest in the outcome of this case far
5 exceeds the requirement to show that their interest “may” be impaired or impeded.
6 See Fed. R. Civ. P. 24(a)(2). The second and third factors of the intervention test
7 are met. See *Wilderness Soc’y*, 630 F.3d at 1177.

8 **3. The State Parties Do Not Adequately Represent Proposed**
9 **Intervenor’s Interests**

10 Although both Proposed Intervenor and the State Parties seek to preserve
11 California’s authority to regulate AT&T as a COLR, Proposed Intervenor’s
12 narrower interests are not adequately represented by the State Parties’ general
13 defense of state regulatory authority.

14 A right to intervene depends only on the possibility that existing
15 representation “‘may be’ inadequate; and the burden of making that showing should
16 be treated as minimal.” *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528,
17 538 n.10 (1972); see *Citizens for Balanced Use*, 647 F.3d at 898. Courts in the
18 Ninth Circuit look to three factors to determine adequacy of representation:
19 “(1) whether the interest of a present party is such that it will undoubtedly make all
20 of a proposed intervenor’s arguments; (2) whether the present party is capable and
21 willing to make such arguments; and (3) whether a proposed intervenor would offer
22 any necessary elements to the proceeding that other parties would neglect.”
23 *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003) (quoting *California v.*
24 *Tahoe Reg’l Planning Agency*, 792 F.2d 775, 778 (9th Cir. 1986)).

25 Further, although a “presumption of adequacy of representation” arises when
26 a governmental body defends its regulations, *Citizens for Balanced Use*, 647 F.3d
27 at 898, such representation may be inadequate when the intervenors have interests
28

1 that are “potentially more narrow and parochial than the interests of the public at
2 large,” *Allied Concrete & Supply Co. v. Baker*, 904 F.3d 1053, 1067 (9th Cir. 2018)
3 (quoting *Californians for Safe & Competitive Dump Truck Transp. v. Mendonca*,
4 152 F.3d 1184, 1190 (9th Cir. 1998)).

5 Proposed Intervenorors satisfy the three-part test, even though it “is sufficient
6 for Applicants to show that, because of the difference in interests, it is likely that
7 Defendants will not advance the same arguments as Applicants.” *Berg*, 268 F.3d at
8 824.

9 *First*, the State Parties will not “undoubtedly” make all of Proposed
10 Intervenorors’ arguments. *See Arakaki*, 324 F.3d at 1086. Although the State Parties
11 are capable of defending California’s regulatory program, which includes the
12 validity of the state’s regulatory authority and maintaining a technology-neutral
13 COLR framework, the State Parties’ institutional interest is not identical to
14 Proposed Intervenorors’ narrower interests. The CPUC is charged with administering
15 a statewide telecommunications framework that balances universal service and
16 public safety against other statutory priorities, including deployment of new
17 technologies, infrastructure investment, economic growth, lower prices, consumer
18 choice, competitive markets, and technological and competitive neutrality. *See Cal.*
19 *Pub. Util. Code* §§ 709, 871.7. In particular, the CPUC often balances among
20 competing interests including the economic interests of the telecommunications
21 industry. *See, e.g., id.* § 871.5(d) (finding that providing LifeLine service should be
22 “without competitive consequences for the telecommunications industry in
23 California”). The CPUC is also participating on its own in the same FCC
24 proceedings as Proposed Intervenorors, having submitted comments in WC Docket
25 Numbers 26-120, 26-121, 26-123, and 26-125. Kammerich Decl. ¶ 18; Toney
26 Decl. ¶ 14.

1 Local governments’ interests, represented by RCRC and CSAC, are
2 narrower: protecting their own service availability, and communications reliability,
3 emergency communications, and continuity of basic communications service in
4 their own communities. Kammerich Decl. ¶¶ 3-11; Knaus Decl. ¶¶ 3-6. CWA’s
5 interest is in protecting their member-worker’s jobs, salaries, benefits and
6 negotiating power, which are directly affected by AT&T’s threat to withdraw
7 service. Arce Decl. ¶¶ 4-11. TURN acts on behalf of the most vulnerable
8 consumers, such as low-income consumers and consumers with disabilities, whose
9 interests are not always paramount when the CPUC balances competing interests
10 and competing statutory mandates. Toney Decl. ¶¶ 3-7. The State Parties may
11 therefore defend the state’s regulatory authority—which Proposed Intervenors
12 support—while taking litigation positions, or accepting limitations or settlements,
13 that preserve statewide regulatory flexibility without fully protecting local
14 governments’ concrete service-continuity and public-safety interests, workers’
15 needs, or the needs of the most vulnerable California residents.

16 *Second*, RCRC, TURN, and CWA have advocated for positions before the
17 CPUC that the CPUC has not always accepted or adopted into policy or rules.
18 Three of the Proposed Intervenors, as well as AT&T, are parties before the CPUC
19 in an ongoing proceeding considering revisions to California’s COLR rules. Toney
20 Decl. ¶¶ 16-19; Kammerich Decl. ¶¶ 18-20; Arce Decl. ¶ 17. Proposed Intervenors
21 have advocated for positions distinct from Cal Advocates, the state-sanctioned
22 consumer organization, particularly regarding possible settlement with AT&T.
23 Toney Decl. ¶ 19; Kammerich Decl. ¶ 20; Arce Decl. ¶ 17. Moreover, Proposed
24 Intervenors have no guarantee that the CPUC will reach conclusions with which
25 they agree or will exercise its enforcement authority in ways consonant with
26 Proposed Intervenors’ goals and objectives, particularly in settlement. *See Citizens*
27 *Allied for Integrity & Accountability, Inc. v. Miller*, No. 1:21-CV-00367-DCN,
28

1 2022 WL 1442966, at *6 & n. 2 (D. Idaho May 5, 2022) (finding representation
2 inadequate in part because “[o]ne can imagine the Defendants withdrawing the
3 permits in an attempt to render the case moot and therefore preserve their statutory
4 scheme”). Thus, State Parties will not undoubtedly make all of Proposed
5 Intervenor’s arguments. *See Arakaki*, 324 F.3d at 1086.

6 *Third*, the Proposed Intervenor’s have already shown—and AT&T has
7 recognized—that they will make different arguments regarding the CPUC’s ability
8 to designate carriers of last resort than the state parties themselves. *See Amicus*
9 *Opp.* at 6:1-2 (“[Proposed Intervenor’s] advance a set of statutory theories that
10 California never raised.”). In particular, Proposed Intervenor’s make arguments in
11 their amicus brief regarding sections 214 and 253 of the federal Communications
12 Act that the State Parties did not make in their opposition to AT&T motion for
13 preliminary injunction, Dkt. No. 31, and have made them in greater detail before
14 the FCC. Additionally, while the positions are currently aligned, AT&T
15 emphasizes the distinction between the State Parties’ technology-neutral position
16 and Proposed Intervenor’s concerns that possible replacement technologies may be
17 unreliable, especially in emergencies. *See Amicus Opp.* at 8:15-18. Additionally,
18 in granting Proposed Intervenor’s request to file an amicus brief, the Court
19 recognized that Proposed Intervenor’s have asserted separate harm and that this
20 action has ramifications beyond the existing parties. *Order Granting Motions for*
21 *Leave to File Briefs as Amicus Curiae* at 2:23-26, Dkt. No. 43.

22 *Finally*, participation by Proposed Intervenor’s is necessary for just resolution
23 of this action. *See Arakaki*, 324 F.3d at 1086. At a minimum, Proposed Intervenor’s
24 have already provided the Court with unique information regarding the public
25 benefits of COLR rules and the harm if these rules are enjoined that can inform the
26 Court’s analysis of any motion to enjoin the COLR rules. *See Amicus Brief*, Dkt.
27 No. 33, Exh. 1 at 11-26. The public interest is one factor the Court must consider
28

1 when deciding whether to issue a preliminary or permanent injunction of the COLR
2 rules. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *eBay Inc.*
3 *v. MercExch., LLC*, 547 U.S. 388, 391 (2006). Proposed Intervenor offers insight
4 into this case’s impact on the public interest, which is particularly important in a
5 case which could impact residents’ access to communications across the whole state
6 of California.

7 In essence, Proposed Intervenor’s distinct interests mean that the existing
8 representation by State Parties is not adequate. Courts recognize this circumstance
9 justifies intervention, particularly with respect to unions. The Ninth Circuit has
10 held that a union seeking to defend the state’s prevailing wage law had a right to
11 intervene because the union members’ interests in receiving the prevailing wage
12 were narrower than the interests of the public at large. *Mendonca*, 152 F.3d at
13 1189-90; *Baker*, 904 F.3d at 1067-68. District courts have applied this rule to grant
14 intervention as of right to a union representing hotel employees to defend a local
15 ordinance, *San Diego Cnty. Lodging Ass’n v. City of San Diego*, No. 20-CV-2151-
16 WQH-MDD, 2021 WL 1733383, at *4 (S.D. Cal. May 3, 2021); a union
17 organization in a dispute over state rules over union recruitment, *Freedom Found.*
18 *v. Washington*, No. C21-5928-JCC, 2022 WL 1110276, at *1 (W.D. Wash. Mar.
19 31, 2022); and a local transportation commission in a dispute over state highway
20 construction, *Friends of Del Norte*, 2020 WL 4349811 at *2.

21 Differing statutory arguments also support intervention by a non-
22 governmental party in support of a government defendant. *See Citizens for*
23 *Balanced Use*, 647 F.3d at 899 (finding inadequate representation when applicants
24 for intervention sought the “broadest possible restrictions” while the existing
25 defendant believed “much narrower restrictions would suffice”); *Citizens Allied for*
26 *Integrity & Accountability, Inc.*, 2022 WL 1442966, at *5 (finding governmental
27 representation inadequate because “Defendants are concerned with protecting its
28

entire statutory scheme as a whole”); *Env’t Def. Ctr. v. Bureau of Safety and Env’t Enf’t*, No. CV 14-9281 PSG (SHx), 2015 WL 12734012, at *4 (C.D. Cal. April 2, 2015) (“[T]he Proposed Intervenor seek to protect their private interests while the Defendants have an interest in protecting the public in general.”). Indeed, a governmental defendant’s “willingness to suggest a limiting construction in defense of a statute is an important consideration in determining whether the government will adequately represent its constituents’ interests.” *California ex rel. Lockyer v. United States*, 450 F.3d 436, 444 (9th Cir. 2006) (quoting *Prete*, 438 F.3d at 958).

Accordingly, Proposed Intervenor are entitled to intervene as of right.

B. In the Alternative, the Court Should Grant Proposed Intervenor Permissive Intervention

Regardless of the Court’s determination as to intervention as of right, it should exercise its discretion to grant permissive intervention. A court may permit intervention on the timely motion of any party that “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(2). A court’s decision to grant permissive intervention is “discretionary, subject to considerations of equity and judicial economy.” *Garza v. County of Los Angeles*, 918 F.2d 763, 777 (9th Cir. 1990).

Permissive intervention “requires (1) an independent ground for jurisdiction; (2) a timely motion; and (3) a common question of law and fact between the movant’s claim or defense and the main action.” *Freedom from Religion Found., Inc. v. Geithner*, 644 F.3d 836, 843 (9th Cir. 2011) (citing *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 473 (9th Cir. 1992)). But if intervenor “in a federal-question case bring[] no new claims, the jurisdictional concern drops away.” *Id.*

Here, because Proposed Intervenor offer defenses, not new claims, they need not demonstrate an independent ground for jurisdiction. See *Jackson v. Abercrombie*, 282 F.R.D. 507, 520 (D. Haw. 2012) (“[Movant] seeks to intervene

1 to defend the laws, not assert any new claims. Thus the independent jurisdictional
2 requirement is inapplicable.”) And their motion is timely for the reasons explained
3 above.

4 Further, as shown in their amicus brief and discussed above, Proposed
5 Intervenor offer defenses grounded in California’s authority to maintain COLR
6 rules and in the public interest, the very issues central to the Court’s analysis in
7 deciding the case. Among the factors a court considers are those that are also
8 considered when evaluating intervention as of right, such as intervenors’ interest
9 and “standing to raise relevant legal issues, the legal position they seek to advance,”
10 “whether the intervenors’ interests are adequately represented by other parties,” and
11 “whether intervention will prolong or unduly delay the litigation.” *See Spangler v.*
12 *Pasadena City Bd. of Educ.*, 552 F.2d 1326, 1329 (9th Cir. 1977). As explained
13 above, and demonstrated in the attached declarations, Proposed Intervenor offer
14 unique interests that are not adequately represented by the State Parties and
15 Proposed Intervenor have moved promptly to avoid any delay. Proposed
16 Intervenor have described above their unique interests in the COLR rules: to
17 protect basic service and emergency communications in their communities, to
18 protect the jobs of communications workers, and to preserve communications
19 access for all members of society, including those who are lower-income or rely on
20 adaptive technology, which are not adequately represented by the State Parties.
21 Toney Decl. ¶¶ 3-7; Kammerich Decl. ¶¶ 4-5, 7-11; Arce Decl. ¶¶ 4-11, 16, 18;
22 Knaus Decl. ¶¶ 3-5. Proposed Intervenor have sought intervention at an early
23 stage, before the filing of an answer or any substantive ruling. Further, Proposed
24 Intervenor’s request to set their deadline to respond to the complaint helps assure
25 that the existing parties and the Court will be spared repetitive arguments.

26 Therefore, in its discretion, the Court should grant permissive intervention
27 under Rule 24(b).
28

1 C. **The Court Should Set the Time for Proposed Intervenor to**
2 **Respond to the Complaint**

3 Proposed Intervenor seek intervention before the deadline for a responsive
4 pleading. See Fed. R. Civ. P. 24(c). The State Parties' response to the complaint is
5 currently due 14 days after the Court issues its order on AT&T's motion for
6 preliminary injunction. Dkt. No. 41. Should the Court grant Proposed Intervenor's
7 motion to intervene, Proposed Intervenor request to file their response to AT&T's
8 complaint on the same schedule: 14 days after the Court issues its order on AT&T's
9 motion for preliminary injunction.

10 **III. CONCLUSION**

11 For these reasons, Proposed Intervenor respectfully request that the Court
12 grant their motion to intervene and set their deadline to respond to the complaint to
13 be 14 days after the Court issues its order on Plaintiff's motion for preliminary
14 injunction.

15 Dated: July 15, 2026

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