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

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

REPLY 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

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July 22, 2026

EXECUTIVE SUMMARY

Commenters supporting AT&T largely repeat the same flawed premise advanced in AT&T's Petition by simply positing that Section 214(c), together with the *Network Modernization Order*, creates an exclusive federal discontinuance regime that displaces state Carrier of Last Resort (COLR) obligations. Those comments do not reconcile that position with Section 152(b)'s express limitation on FCC authority over intrastate communications, Section 214(e)'s preservation of state responsibility to ensure continued service, or Congress's repeated preservation of state authority in Sections 253 and 254.

Commenters' reliance on the so-called impossibility exception to Section 152 in support of AT&T's Petition likewise fails. Their arguments assume that because modern communications networks use common facilities, federal authority necessarily displaces state authority. That premise is inconsistent with Supreme Court precedent holding that Section 152(b) remains an affirmative limitation on FCC jurisdiction even where interstate and intrastate services are provided over an integrated system.

Commenters also overstate the FCC's authority by relying on broadband Internet access, IP-based, and mobile services to justify preemption without addressing the FCC's limited authority over Title I services.

Finally, California's COLR framework does not require carriers to maintain copper infrastructure or use any particular technology; it requires only that all California residents continue to receive reliable and adequate communications service. The California Public Utilities Commission is evaluating what replacement technologies satisfy those obligations and under what circumstances carriers may be relieved of COLR responsibilities. The FCC should respect

Congress's allocation of authority, allow that process to conclude, and deny AT&T's request for sweeping federal preemption.

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I. Introduction

Rural County Representatives of California (RCRC), California Alliance for Digital Equity (CADE), California Farm Bureau Federation (CFBF), California State Association of Counties (CSAC), Communications Workers of America (CWA), Small Business Utility Advocates (SBUA), and The Utility Reform Network (TURN)[1] hereby submit these reply comments in response to the opening comments filed in the above-captioned docket.

II. Commenters Supporting AT&T Offer the Same Flawed Analysis of the Communications Act as AT&T.

Commenters[2] supporting AT&T's Petition[3] settle at parroting AT&T's positions, and in doing so repeat the same analytical error advanced by AT&T: they begin with Section 214(c),

[1] See **Appendix A** to these same parties' comments filed in this docket on July 7, 2026 (RCRC et al. Comments) for a brief description of each commenting organization, https://www.fcc.gov/ecfs/document/26109999579/1.

[2] Unless otherwise noted, all references to comments herein are comments submitted in WC Docket No. 26-125 on July 7, 2026.

[3] *Petition of AT&T for Preemption and Declaratory Ruling Regarding California's Carrier of Last Resort and Related Requirements*, WC Docket No. 26-125 (filed May 20, 2026) (AT&T's Petition), https://www.fcc.gov/ecfs/document/1052056507747/1.

assume that it creates an exclusive federal discontinuance regime, and then conclude that all conflicting state requirements are subject to preemption.[4] In doing so, they ignore the jurisdictional limitation imposed by Section 152 and the remainder of Section 214 itself. The Supreme Court has recognized that Section 152(b) is a "congressional denial of power to the FCC," not merely a default allocation of authority over intrastate communications services and regulations.[5] Congress must clearly authorize an agency to expand its authority into an area traditionally reserved to the states.[6] As the undersigned commenters have explained, neither Section 214 nor any other

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[4] Verizon Comments at 16-21 (relying almost exclusively on AT&T's Petition and *Reducing Barriers to Network Improvements and Service Changes; Accelerating Network Modernization*, WC Docket Nos. 25-209 and 25-208, Report and Order, FCC 26-19 (rel. Mar. 27, 2026) (*Network Modernization Order*) to claim "the Act gives the Commission the final say over discontinuance of jurisdictionally mixed services" and that Section 214(c) expressly preempts California's COLR requirements), https://www.fcc.gov/ecfs/document/26109998352/1; USTelecom Comments at 7-10 (asserting that the *Network Modernization Order* establishes a federal discontinuance framework that supersedes California's COLR regime, without discussion of Section 152's jurisdictional limitations), https://www.fcc.gov/ecfs/document/26109998522/1; Washington Infrastructure Association (WIA) Comments at 7-10 (arguing that Section 214 authorizes discontinuance based principally on AT&T's Petition, the *Network Modernization Order*, and WIA's own prior comments and industry studies without any explanation of how that reading survives Section 152's withdrawal of FCC authority over intrastate communications), https://www.fcc.gov/ecfs/document/26109999194/1; The Free State Foundation (FSF) Comments at 4-6 (contending that California's COLR rules "stand in direct conflict with federal law" simply because the *Network Modernization Order* concluded that Section 214(c) eliminates any need for additional state authorization following Commission approval), https://www.fcc.gov/ecfs/document/26109997727/1; Washington Legal Foundation (WLF) Comments at 2-6 (arguing that Section 214 creates an exclusively federal discontinuance regime without mention of the jurisdictional limitation imposed by Section 152(b)), https://www.fcc.gov/ecfs/document/26109997469/1.

[5] *Louisiana Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374-76 (1986) (*La. PSC or Louisiana PSC*).

[6] *La. PSC*, 476 U.S. at 373; *USTelecom Broadband Ass'n v. Reynolds*, No. 25-CV-08959-LB, 2026 WL 516167, at *2 (N.D. Cal. Feb. 24, 2026) ("[A]bsent a specific provision giving the FCC intrastate authority, the jurisdictional limits remain.").

provision of the Communications Act contains the clear congressional statement necessary to authorize the Commission to displace California's COLR rules.[7]

Because California's COLR rules arise from states' police powers over public safety, consumer protection, and universal service, Congress must speak with unmistakable clarity before federal law may displace those responsibilities.[8] None of the commenters supporting AT&T identify a clear congressional statement that would be required to preempt states' authority. They simply assume that Section 214(c), standing alone, silently accomplishes what Congress repeatedly declined to do elsewhere in the Communications Act.[9] Verizon does attempt to invoke general conflict-preemption decisions such as *Capital Cities Cable, Inc. v. Crisp*, 467 U.S. 691 (1984), and *Qwest Corp. v. Arizona Corp. Commission*, 567 F.3d 1109 (9th Cir. 2009).[10] However, Verizon does not explain how those ordinary preemption principles overcome the express jurisdictional limitation Congress enacted in Section 152(b). General preemption principles cannot supply authority Congress expressly withheld.

Taking a slightly different tack, the Free State Foundation incorrectly implies that the California Public Utility Commission (CPUC) has in some way conceded the *Network Modernization Order*'s preemption of its COLR rules.[11] This is not so—as the text of the ruling

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[7] RCRC et al. Comments at 16-27; *see also* TURN, RCRC, and CADE (TURN et al.) Comments at 4-5 (noting the plain language of Sections 214 and 253 display Congressional intent to avoid preemption), https://www.fcc.gov/ecfs/document/26109999505/1.

[8] RCRC et al. Comments at 22-24.

[9] *See* WLF Comments at 6; International Center for Law & Economics (ICLE) Comments at 6, https://www.fcc.gov/ecfs/document/26109987333/1.

[10] Verizon Comments at 20-21.

[11] FSF Comments at 5 (citing *Administrative Law Judge's Ruling Soliciting Comments on FCC Section 214 Service Discontinuance Rules Change Impact*, R.24-06-012, (CPUC May 28, 2026) (*ALJ Ruling Soliciting Comments*),
available at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M607/K356/607356434.PDF).

cited for this proposition explains, its purpose is to allow parties to comment on the threshold issue of *whether* the FCC's revised rules impact California's state COLR rules. Secondarily, depending on the party's particular view of the threshold question, (i.e., "if yes" and "if appropriate") parties are invited to offer comments on whether and how harmonization with the FCC's order may be required and how to do so in a manner that continues to meet both federal and state service obligations.[12] The mere solicitation of comments is in no way appropriately characterized as a concession of any preemption, no more so than when the FCC seeks comment on the scope of its own authority in the face of developments elsewhere.[13]

Ultimately, the AT&T-supporting commenters' analyses all rest on the same faulty premise that Section 214(c), as interpreted by the *Network Modernization Order,* implicitly enlarges the Commission's jurisdiction notwithstanding Congress's express limitations in Section 152 and its equally express preservation of state authority in Sections 214(e), 253, and 254. The Communications Act's text and controlling precedent demonstrate precisely the opposite. Because Congress has never authorized the Commission to extinguish state COLR regulations, the Commission lacks authority to grant the sweeping declaratory relief AT&T requests.

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[12] *ALJ Ruling Soliciting Comments* at 1.

[13] *See, e.g.*, *Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts*, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 24-84, 39 FCC Rcd 9203, 9215, ¶ 34 (rel. Aug. 8, 2024) ("Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority."); *Safeguarding & Securing the Open Internet*, Notice of Proposed Rulemaking, FCC 23-83, 38 FCC Rcd. 9792, 9820, ¶ 48 (rel. Oct. 20, 2023) ("We also seek comment on how reclassifying BIAS as a telecommunications service and classifying mobile BIAS as a commercial mobile service will impact the Commission's authority over wireless infrastructure.").

III. Commenters Supporting AT&T Misapply the Impossibility Exception and Disregard Congress's Preservation of State Authority.

A few commenters attempt to expand upon AT&T's reliance on the so-called "impossibility exception" to argue in favor of preemption. Commenters invoking the Section 152 impossibility exception largely assume that because modern voice services use common facilities they are "jurisdictionally mixed" and thus, federal authority necessarily displaces state authority.[14] Yet Congress enacted Section 152 against the backdrop of a nationwide telephone system in which local and long-distance service already traveled over common facilities operated by the original AT&T Bell System.[15] Congress nevertheless preserved state authority over intrastate communications through Section 152(b), demonstrating that common use of facilities has never been sufficient to eliminate state jurisdiction. Use of common facilities is not a modern development.

Shared infrastructure existed when the Supreme Court decided in *Louisiana PSC* that the Commission lacks authority to override Congressional direction preventing preemption of intrastate service regulations even when "interstate and intrastate service are provided by a single integrated system."[16] However, the *Network Modernization Order* relegated *Louisiana PSC* to a brief footnote while concluding, without meaningful analysis, that the impossibility exception

[14] *See* Verizon Comments at 16-21 (arguing that POTS is a "jurisdictionally mixed service" because interstate and intrastate calls traverse the same facilities); WLF Comments at 2, 5-6 (arguing that interstate and intrastate service "can no longer be separated" and therefore the impossibility exception applies); ICLE Comments at 6-8 (contending that the impossibility exception should apply whenever separation is practically or economically infeasible); ACLP at New York Law School (ACLP) Comments at 8-9 (same), https://www.fcc.gov/ecfs/document/26109998348/1.

[15] *See* RCRC et al. Comments at 24-26 (§ III(D)(3)); TURN *Ex Parte* Letter, WC Docket No. 26-125 at 1 (filed July 15, 2026) https://www.fcc.gov/ecfs/document/26110020798/1.

[16] RCRC et al. Comments at 25 (citing *La. PSC*, 476 U.S.at 374-75).

justified preemption.[17] It comes as no surprise that AT&T's Petition does not analyze *Louisiana PSC* given the decision's holding that Section 152(b) constitutes an affirmative congressional limitation on FCC authority and that the Commission may not invoke implied authority to regulate matters Congress reserved to the States.[18] The commenters supporting AT&T try, but do not effectively confront the Supreme Court's decision in *Louisiana PSC*.

WLF cites *Louisiana PSC* only as one of several cases recognizing the impossibility exception, without addressing the Court's broader holding that Section 152(b) is itself a congressional denial of FCC power.[19] ICLE likewise relies on the impossibility exception as referenced in *Louisiana PSC*, but discusses only the framework of the exception rather than the Supreme Court's central holding that the Commission cannot expand its jurisdiction beyond the limits Congress imposed.[20] ACLP cites only to authority that addresses solely VoIP services in its analysis of the impossibility exception, likewise making no attempt to reconcile with the *Louisiana PSC*'s ruling that the jurisdictional limitation remains in integrated intrastate and interstate systems.[21] This silence as to the actual holding in *Louisiana PSC* is unsurprising given that it rejects the proposition that the Commission may invoke implied authority to override Congress's express reservation of intrastate authority to the States.

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[17] *Network Modernization Order* at 59, ¶ 113 n.404.

[18] *La. PSC*, 476 U.S. at 374-75.

[19] WLF Comments at 5-6 (citing *La. PSC*, 476 U.S. at 375 n.4; *Pub. Serv. Comm'n of Md. v. FCC*, 909 F.2d 1510, 1515 (D.C. Cir. 1990); *California v. FCC*, 39 F.3d 919, 931-33 (9th Cir. 1994)).

[20] ICLE Comments at 6-8.

[21] ACLP at 8 (citing *Minn. Pub. Utils. Comm'n v. FCC*, 483 F.3d 570, 578 (8th Cir. 2007)).

IV. Commenters Supporting AT&T Improperly Overstate FCC Authority.

The commenters supporting AT&T wrongly follow AT&T's lead, improperly invoking Commission authority over Title I services.[22] For example, several of those commenters seem to imply that integrated IP-based networks that incorporate Title I are in some way inherently "jurisdictionally mixed" but do not address the Commission's acknowledged lack of regulatory authority over broadband Internet access services.[23] The Commission lacks Title II authority over broadband Internet access service, and Congress has expressly preserved state authority over some mobile voice services used to ensure universal service through Section 332(c)(3).[24] None of the cited comments attempts to reconcile AT&T's expansive preemption theory with those statutory limitations or with courts' decisions rejecting broad FCC preemption where the Commission lacks underlying regulatory authority.[25]

V. Federal and California State Universal Service Policy Requires that All Communities Continue to Receive Adequate Service.

Commenters supporting AT&T's Petition emphasize the benefits of network modernization and retirement of legacy copper infrastructure. They argue that widespread broadband deployment, declining POTS subscriptions, increasing consumer adoption of wireless and VoIP services, and the financial and operational burdens associated with maintaining legacy copper infrastructure demonstrate that California's COLR framework is no longer necessary.[26]

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[22] AT&T's Petition at 40-43.

[23] *See, e.g.*, ACLP Comments at 8; ICLE Comments at 6-8.

[24] *See* RCRC et al. Comments at 28 (§ III.E.2) at 23-24.

[25] 47 U.S.C. §§ 152, 214(e), 253(b); *See* RCRC et al. Comments § III.E.1, at 27 (citing *New York State Telecommunications Ass'n, Inc. v. James*, 101 F.4th 135, 151-52 (2d Cir. 2024), *cert. denied*, 145 S. Ct. 984 (2024), *reh'g denied*, 145 S. Ct. 1229 (2025); *Mozilla Corp. v. FCC*, 940 F.3d 1 (D.C. Cir. 2019)).

[26] *See, e.g.*, ACLP Comments at 4-7 (arguing that declining POTS subscriptions and widespread broadband availability demonstrate that California's COLR framework is no longer necessary);

Some commenters also cite increasing copper theft and vandalism as additional reasons to retire legacy copper infrastructure.[27] As explained in prior comments, federal and California universal service policy share the same objective of ensuring that consumers continue to receive adequate telecommunications service as communications technologies evolve.[28] Specifically, California's COLR framework does not require carriers to maintain copper infrastructure or use any particular technology.[29] Rather, it ensures that all Californians, including those in rural, remote, and high-cost areas continue to have access to essential communications services regardless of the technology used to deliver them.

The question therefore is whether vulnerable communities will be left without adequate communications service if AT&T's effort to "modernize" is achieved through federal preemption *of* its COLR obligations rather than *within* the existing COLR framework (as it may evolve). Many of these commenters emphasize the economic and technological benefits of modernization while giving comparatively little attention to public safety impacts. Those arguments, however, do not establish that replacement technologies provide reliable, functionally equivalent communications

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Verizon Comments at 4-8 (discussing rising maintenance costs, obsolete switching equipment, and operational efficiencies associated with fiber deployment); FSF Comments at 2-9 (arguing that maintaining legacy copper infrastructure diverts investment from all-IP networks); Digital Liberty Comments at 2-3 (arguing that legacy copper infrastructure is increasingly obsolete and costly to maintain), https://www.fcc.gov/ecfs/document/26109999153/1.

[27] *See*, *e.g.*, FSF Comments at 3 (arguing that California's COLR rules require providers to maintain obsolete, theft-prone copper networks); Digital Liberty Comments at 3 (arguing that copper infrastructure is increasingly vulnerable to theft and vandalism); Verizon Comments at 3-8 (discussing the operational challenges associated with maintaining legacy copper infrastructure).

[28] *See* RCRC et al. Comments at 3-7.

[29] *See e.g.*, *Assigned Commissioner's Scoping Memo and Ruling*, R.24-06-012, at 5 (CPUC Feb. 4, 2025) ("Current COLR service requirements are technology neutral, meaning a COLR must offer basic service to any resident in its service territory that requests it, but may determine what technology to use to provide that service."), https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M555/K967/555967147.PDF.

for the remaining consumers who continue to rely on traditional basic telephone service, particularly during emergencies. Nor do they demonstrate that replacement services satisfy the standards currently under consideration in the CPUC's ongoing COLR rulemaking.

Commenters opposing AT&T's Petition do not oppose network modernization itself. Rather, they emphasize that any transition away from traditional basic telephone service must ensure that replacement services are reliable, functionally equivalent, and available.[30] For example, Nevada County explains that traditional landline service remains essential during wildfires, Public Safety Power Shutoffs, and other emergencies because many rural areas lack reliable alternatives, while Tulare County similarly emphasizes the importance of continued state oversight to ensure continuity of service and emergency reliability.[31] Wired Broadband likewise argues that traditional landline service continues to provide reliable communications during emergencies and for individuals who lack practical wireless alternatives, and TURN, RCRC, and CADE argue that modernization and universal service are not mutually exclusive and that AT&T has failed to demonstrate that replacement services adequately protect public safety or justify preemption.[32]

The CPUC is currently evaluating potential revisions to its COLR rules, including what technologies may adequately replace traditional basic telephone service as communications technologies evolve and the circumstances under which a carrier may be relieved of its COLR

[30] *See, e.g.*, County of Nevada Comments at 1 (supporting modernization only after reliable and affordable alternatives are available), https://www.fcc.gov/ecfs/document/26109999545/1; TURN et al. Comments at 1-2 (acknowledging broadband demand, but arguing modernization cannot trade reliability for profit or leave consumers without alternatives).

[31] County of Nevada Comments at 1-2; County of Tulare Comments at 1-2, https://www.fcc.gov/ecfs/document/26109995720/1.

[32] Wired Broadband Comments at 4-10, https://www.fcc.gov/ecfs/document/26110000106/1; TURN et al. Comments at 2-8.

obligations.[33] Commenters supporting AT&T's Petition do not meaningfully explain why the Commission should abruptly determine that replacement technologies adequately protect California consumers' local services while this process remains ongoing. That CPUC proceeding is subject to a statutory deadline of February 19, 2027, and the schedule was extended to allow the CPUC additional time to consider comments on the Staff Proposal and the joint proposal submitted by the Public Advocates Office and AT&T.[34] California should be allowed to finish its important work, and the Commission should respect state authority over universal service.

VI. Conclusion

For the foregoing reasons and those cited in their prior Comments, RCRC, CADE, CFBF, CSAC, CWA, SBUA, and TURN respectfully request that the Commission deny AT&T's Petition and preserve California's authority to ensure continued access to basic telephone service.

Respectfully submitted,

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[33] RCRC et al. Comments at 7 (citing *Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules*, R.24-06-012 (Issued June 28, 2024), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M534/K685/534685783.PDF.).

[34] *Id.*