

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

Order Instituting Investigation to Address
Intrastate Rural Call Completion Issues.

I. 14-05-012

**REPLY COMMENTS BY THE COUNTY OF MENDOCINO
TO CARRIER COMMENTS ON THE PROPOSED DECISION
OF COMMISSIONER SANDOVAL**

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December 12, 2016

Mendocino County hereby submits its Reply to Comments filed by carriers regarding the Proposed Decision of Commissioner Sandoval (“PD”). These reply comments specifically address factual errors by AT&T (the dominant ILEC in Mendocino County) and Verizon.

AT&T rejects the PD, and is “troubled by the substantial expansion of issues captured in the PD without a corresponding solicitation for needed additional participation from critical stakeholders, such as the public safety community.” (AT&T comments page 1.) AT&T (and Frontier) were specifically invited to participate in the Public Participation Hearings (“PPH”) held in Ukiah, but they chose not to attend. These official and formal PUC hearings are then dismissed as only gathering “issues worth exploring” but the speakers are not considered part of a vital dialog to hear local concerns and understand our issues - the first step for any sort of collaborative partnership which AT&T stated several times that they would like. (AT&T comments, page 1, 4.) Our public safety community participated in this hearing (including 13 high-ranking officials) and AT&T’s participation would have been a great opportunity for the start of a collaborative and “robust participation of stakeholders and subject matter experts.” AT&T continues on to state that “the record underlying this PD is based primarily on (1) anecdotal input received from multiple Public Participation Hearings...” (AT&T comments, page 7.) The dismissal of PPH speaker testimony as “anecdotal” (which implies that such evidence is somehow unreliable or untrustworthy, or 3rd party hearsay), and the continued use of the word “anecdotal” (page 4, 7, 9, and 15) is inappropriate; we support the opposite conclusion from the PPH speakers - that testimony from persons such as the Sheriff, Police Chiefs, Fire Department Chiefs, CalFire Unit Chief, Emergency Medical Services Agency Coordinator, Director of County Planning and Building, Supervisors, OES Manager, other network managers, and City Mayors, from a county which is a party to this proceeding, is exceptionally trustworthy. Much of their testimony is also composed of facts that can be verified. Other residential speakers had nothing personal to gain in traveling hours, waiting more hours to go up to a microphone, and then commit to speak publicly (something most people do not like to do). They did it because the hardship of their experience compelled them. Additional evidence supplied in Mendocino’s comments to the PD includes an affidavit and signed letters from residents swearing as to the truth of their testimony, some of which was a follow-up to PPH testimony.

AT&T also argues that Directive OP 16 was “...formulated without any consultation and dialogue from and among the parties involved.” (ATT comments, page 5) It is difficult to believe that AT&T objects to officially providing county public OES officials with a 24/7 contact number, but regardless, there was dialog between at least the CPUC and county OES. During the formal PPH held in Ukiah, Mendocino County OES Program Manager Rick Ehlert testified specifically about the lack of communication between the Emergency Operations Center/OES and AT&T during the 2015 fiber cut emergency. This was the first opportunity Mendocino has had to participate in any official dialog with the CPUC as a party, and if AT&T/Frontier had attended, then there could have been more discussion “from and among the parties involved.”

It is good that AT&T recognizes that “many of the recommendations and intentions of the PD have substantial merit, and as stated above AT&T repeatedly supports a collaborative approach to addressing these issues...” (page 4) However, a collaborative approach is what is needed, which is exactly why this PD should be approved as Phase 2 would address both AT&T’s and Mendocino County’s concerns about lack of Public Safety involvement (which AT&T calls “absolutely critical”, page 5) and provide for additional forums for such engagement. As provided in our Opening Comments¹ to the PD, the Mendocino County Sheriff would like to participate in a proposed “Working Group”, which would provide this needed county-level public safety involvement.

AT&T correctly notes that network outage reporting was considered in the Service Quality Proceeding (R.11-12-001) and that the PUC at that time did not adopt protocols similar to those found in the current PD. However, Mendocino County was not a party to that proceeding, and our evidence as to how the lack of reporting impacts public safety was not available for consideration in that final decision. Becoming a party to a PUC proceeding is not something that a rural county such as Mendocino “wants” to do²; we have zero telecom lawyers, and only one general counsel lawyer for the entire county so our resources are scarce and limited; we became involved only as “last resort” situation, in that the problems we are having are not being ad-

¹ Mendocino County Comments, attachment A, page 1 and 2

² The single general counsel lawyer for the entire county must deal with these filings; she also covers all county Health and Humans services/mental health issues; the other seven deputy counsels are dedicated solely to child protection services (3), Sheriff’s office (2), and Planning and Building (2)

dressed through the CPUC nor the legislature. And just as AT&T notes that the reporting requirements that were included in SB1250 were considered and were not passed, and “anticipates that the bill, in substance, will be reintroduced.” (AT&T comments, page 10 and 11), there is no reason not to re-introduce reporting issues in this proceeding even if they were considered in another proceeding and not adopted, since the issue is still relevant and if the evidence in this specific proceeding supports it, which it does.

AT&T also states that “The PD’s proposed rural outage reporting requirements lack sufficient support in the record...” (AT&T comments, page 11) Again, there is sufficient evidence in the record to support a lower threshold of reporting requirements to the PUC, and an additional Phase 2 will allow for public safety input in the discussion. Continuing on, their comments say such reportings “...threaten to impose unnecessary costs and burdens on carriers.” The “unnecessary costs and burdens” argument should be considered relative to the cumulative “costs and burdens” that fall on the thousands of residents during an outage; once examined in that light³ the absurdity of the uneven playing field becomes clear. The residents are the ones who suffer the consequences from these decisions and whose lives are endangered - not the carriers. If carriers consider reporting to be such a burden, then it may then be considered a great incentive for them to make networks as resilient as possible to avoid outages, which would be a good thing. Verizon even went so far as to claim that reporting requirements cause needless burden on carriers, “without providing any concomitant benefit to consumers...” (Verizon Comments, page 13) Again, please refer to Sheriff Allman’s signed letter in support of the PD (and it’s phase 2/working group for public safety official notification) in which he laments the lack of notification of the 2014 outage for 6 hours, “Those six hours could have meant the difference between life and death for one of Mendocino County citizens.” This is not only a benefit, it is a necessity.

There are also no facts presented to support the next argument presented that “Extensive reporting requirements necessarily divert a carrier’s focus and resources from repairing outages to filing reports, which in turn could extend the duration of network outages.” (AT&T page 11, and similar argument from Verizon, page 13) The technicians in the field repairing the fiber would not be the ones who would be doing the reporting, so it seems highly doubtful that report-

³ Please see our outage reports submitted as appendix A in Mendocino comments submitted 10/4/16 in response to the AC’s Ruling inviting party comments.

ing would prolong repair time; and therefore, the reporting requirements could not be characterized as “extensive.” When carriers have entire departments devoted to Regulatory and Legal Affairs, we have confidence that carriers would be able to find ways to fulfill the reporting requirements without undue burden.

Carrier comments continually highlight the FCC NORS reporting system and the 900,000 user-minute metric, and the fact that now such reports are required to be submitted to the CPUC as well. What is continually missed, however, is the fact that this reporting is NOT sufficient for rural areas and that local public safety officials (the ones responsible for dispatching ambulances and police) routinely lack access to information that is of critical importance, both in real time and afterwards. For example, when discussing the Mendocino outages of 2014 and 2015 AT&T correctly states on page 13, “NORS Reports were provided to both the FCC and the Commission on each of these outages.” However, Mendocino County did *not* have real time access to information, nor do we have access to the NORS reports now. This lack of access to information to local officials is the reason why this issue needs to be addressed in this proceeding, and why the PD needs to be approved. We need reporting standards that work for rural counties so Public Safety officials can do their job and protect public safety. “On-the-ground” officials are saying it loud and clear: The federal FCC standards do not work for rural counties. SB 1250, supported by many public safety officials including the Mendocino County Sheriff, was written to address this shortcoming,⁴ and had stricter reporting requirements (75,000 user-minutes with local notification) than the current PD (300,000 user minutes and no local OES notification as yet, but with Phase 2 for such modifications with public safety input). Unfortunately, SB1250 failed to pass because it was NOT supported by AT&T, despite efforts by Senator McGuire to modify the bill to gain carrier support. A Congressional GOA report that investigated the technology transitions (and in which the Mendocino outages were briefly discussed) found that the “FCC lacks a detailed strategy that outlines how it will address its remaining information needs” as to assess the tech transition’s effects.⁵ The CPUC’s role is that of a vital partner *with* the FCC, and the FCC relies on state commissions for data. The state will always be in a better position to make a

⁴ The March 17, 2016 support letter sent by the Mendocino County Board of Supervisors in support of SB1250 stated, “Failure to report 911 service outages can wreak havoc on rural communities, and put the public's safety at risk.”

⁵ GAO report executive summary provided in Mendocino Comments on PD as part of Attachment A

more accurate needs assessment of its citizens than the FCC. The California Commission must not abandon this important role in the protection of its citizens. As stated by Franklin D. Roosevelt during his signing of the Rural Electrification Bill, “[i]t is particularly important that extensions of rural electrification be planned in such a way as to provide service on an area basis. The practice has been too frequent in the past for private utility companies to undertake to serve only the more prosperous and more populous rural sections. As a result, families in less favored and in sparsely settled sections were left unserved.” (Franklin D. Roosevelt: “Statement of Signing a Rural Electrification Bill.” That was in 1944 and the need to bring electricity to the rural areas was recognized as serving public health and welfare. The need to provide communication in Mendocino County is no less important to the welfare of its rural community.

In conclusion, the Nov. 15, 2016 Proposed Decision of Commissioner Sandoval should be adopted by the Commission.

Respectfully submitted,

Dated: December 12, 2016

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