PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division **RESOLUTION T-17769**
Carrier Oversight and Programs Branch **January 12, 2023**

RESOLUTION

RESOLUTION T-17769 Approving AT&T California's (U-1001-C) Advice Letter 49018 and Advice Letter 49018A and Requiring AT&T to File a Corrective Action Plan

I. SUMMARY

This Resolution approves AT&T's Advice Letters (AL) 49018 and AL 49018A and approves the proposed projects in lieu of the G.O. 133-D mandated fine of $3,092,400. AT&T shall complete the projects in AL 49018 and AL 49018A as proposed. These projects are designed to provide new fiber-optic broadband infrastructure and other services within AT&T's operating territory, and they are consistent with AT&T's current plans to provide fiber-optic broadband services throughout its territory.

Additionally, this Resolution orders AT&T California (AT&T) to submit a Corrective Action Plan pursuant to General Order (G.O.) 133-D, Section 7, that explains the reasons AT&T has failed to meet G.O. 133-D-required service quality standards and the actions that the company will take to correct the failure and improve performance to a level that meets adopted measures and standards. AT&T shall submit the Plan within 60 days of the date of this Resolution. For the next two years, AT&T shall submit quarterly filings that provide project updates, and that explain whether the service quality issues have been improved and resolved. If at the end of the two-year period AT&T remains in chronic failure status and fails to demonstrate that the projects have resolved the existing service quality issues, the Commission may take additional actions, including issuing an Order Instituting Investigation to consider penalties or further remedial actions, as are necessary and appropriate.

II. BACKGROUND

Since 1972, the Commission has required public utility telephone corporations such as

AT&T to provide service that meets minimum service quality standards.[1] G.O. 133-C established a minimum set of service quality standards and measures for installation, maintenance, and operator services for local exchange telephone service in California, and G.O. 133-D, adopted in Decision (D.) 16-08-021,[2] expanded on several of G.O. 133-C's provisions and established an automatic fine mechanism applicable when a carrier fails to meet any of the five service quality measures for three consecutive months.[3]

The five service quality measures focus on how long it takes telephone corporations such as AT&T to install, maintain, repair, and respond to requests regarding telephone service. G.O. 133-D requires telephone corporations to report, on a quarterly basis, monthly performance results for each of the five service quality metrics in Table 1[4] using a standardized form developed by Commission staff, the "Service Quality Standards Report Card."[5] These quarterly reports appear on the Commission's website.[6]

TABLE 1	
Service Measure	**Type of Service**
Installation Interval	Installation
Installation Commitments	Installation
Customer Trouble Reports	Maintenance
Out of Service Repair Interval	Maintenance
Answer Time	Operator Services

A. G.O. 133-D FINES

Carrier performance, carrier size, and duration of noncompliance determines a G.O. 133-D fine amount. G.O. 133-D, Section 9, sets forth the service quality fines, which apply to carriers of traditional voice telephone service such as AT&T.[7] A carrier will begin incurring a fine for these service quality measures when it reaches "chronic

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[1] *See* Pub. Util. Code § 2896 ("The [C]omission shall require telephone corporations to provide customer service to telecommunication customers that include, but are not limited to,…(c) Reasonable statewide service quality standards, including but not limited to, standards regarding network technical quality, customer service, installation, repair, and billing. …"); *see* also G.O. 133-D, § 1.1(a).

[2] D.16-10-019 corrects minor errors in the original version of G.O. 133-D.

[3] G.O. 133-D, § 9.1.

[4] *See* §§ 3.1(e), 3.2(e),3.3(e), 3.4(e), and 3.5(e) in both G.O. 133-C and G.O. 133-D.

[5] *See* G.O. 133-C, Rule 8 ("8. FORM The attached form is a template for reporting G.O. 133-C Service Quality Standards. The staff may change this form as necessary." *See also* G.O. 133-D, Rule 10 ("10. FORM The attached formis a template for reporting G.O. 133-D Service Quality Standards. The staff may change this form as necessary. Additional information can be found on the Commission's website.") The form can be found at https://www.cpuc.ca.G.O.v/General.aspx?id=1011.

[6] *See* https://www.cpuc.ca.G.O.v/General.aspx?id=1107. The Commission's Communications Division posts on its webpage all reporting carriers' Quarterly Service Quality Reports (*i.e.*, service quality report cards) from 2010 to the present.

[7] G.O. 133-D defines time division multiplexing (TDM)-based voice service as "traditional telephone service."

failure status," which means a failure to meet the minimum standard for three consecutive months.[8] A carrier in chronic failure status will be fined a specific amount, as detailed in Sections 9.3 to 9.5, for each day that it failed to meet the minimum monthly standard.[9] A carrier exits chronic failure status after it meets the standard for two consecutive months.[10] However, until the carrier exits chronic failure status, the carrier will continue to incur fines for any succeeding months that it failed to meet the standard.[11]

A carrier's monthly service quality data compared to the minimum performance standards determine whether a carrier is subject to fines. These results and a unique scaling factor determine how a carrier's fines are calculated. Section 9.6, Advice Letter Tabulating Fine, requires a telephone corporation that fails to meet the minimum standards to calculate and report the applicable fine imposed by G.O. 133-D on an annual basis, stating:

> The performance of any telephone corporation that does not meet the minimum standards shall submit annually, by February 15 of the following year, a Tier II Advice Letter that shows by month each Service Quality measurement that did not meet the minimum standards and the applicable fine.
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> The advice letter shall contain detailed calculations using MS Excel spreadsheets (or a format specified by the Communications Division) with explanations of how each fine was calculated and assumptions used in the calculation. Communications Division (CD) will prepare a resolution for the Commission annually, and if the resolution is adopted, then fines shall be payable to the California Public Utilities Commission for deposit to the California General Fund.[12]

Each of the five service quality metrics has an assigned "Minimum Standard Reporting Level" that must be met to be in compliance with G.O. 133-D. When a carrier's performance falls below any of the minimum standards, the carrier is deemed to be out of compliance and must report this information to the Commission.

ALTERNATIVE TO INVEST TWICE THE AMOUNT OF FINE

In its AL, AT&T proposes to invest twice the fine amount pursuant to G.O. 133-D

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[8] G.O. 133-D, § 9.1.
[9] *Ibid.*
[10] *Ibid.*
[11] *Ibid.*
[12] G.O. 133-D, § 9.6. Section 9.6 became effective January 1, 2017.

Section 9.7, Alternative Proposal for Mandatory Corrective Action. We call this provision an "investment in lieu" in this Resolution. That provision allows carriers subject to annual fines to propose in their annual filing that in lieu of a fine, they will "invest no less than twice the amount of their annual fine in a project(s) which improves service quality in a measurable way within two years."[13] Section 9.7 requires the carrier to demonstrate that: 1) twice the amount of the fine is being spent, 2) the project(s) is an incremental expenditure with supporting financials (e.g. expenditure is in excess of the existing construction budget and/or staffing base), 3) the project(s) is designed to address a service quality deficiency and, 4) upon the project(s) completion, the carrier shall demonstrate the results for the purpose proposed.

Thus, the burden is on AT&T to demonstrate with specificity that the proposed investment will remedy the service quality deficiencies that led to the fine in a "measurable way." The carrier must provide "supporting financials" or other documentation that shows the project is new and funded in excess of business-as-usual funding levels and must improve customer service quality.[14]

Given that the Commission authorized carriers to request this alternative option in lieu of a penalty on public interest grounds, we find it reasonable to apply a public interest standard in reviewing AT&T's Section 9.7 request. This review must also be done within the context of the telephone corporation's responsibility under state law and Commission rules to maintain its facilities and provide safe and reliable service by meeting "reasonable statewide service quality standards."[15] Reliable telecommunications services are critical to many aspects of society, including public health and safety, business and commerce, and education, and thus, a telephone corporation's investments in service quality should already be sufficient to meet those needs. Therefore, it would not be in the public interest for the Commission to approve a carrier's Section 9.7 fine suspension/investment plan if the proposal includes projects that are not truly in addition to the carrier's normal budgeted project costs and O&M expenditures for maintenance, repair, and other operational activities.

B. CORRECTIVE ACTION PLAN

Regardless of whether the Commission orders a carrier to pay the calculated fine or approves the carrier's proposal to carry out projects worth twice the fine, the Commission may require the carrier to file a Corrective Action Plan (CAP). G.O. 133-D

[13] G.O. 133-D, § 9.7.
[14] See e.g., G.O. 133-D, § 9.7 (requiring that "the project(s) is an incremental expenditure with supporting financials (e.g., expenditure is in excess of the existing construction budget and/or staffing base").
[15] See e.g., Pub. Util. Code §§ 451 and 2896(c).

Section 7 provides:

> Carriers that fail to meet any standard for two consecutive months or more shall file with the Communications Division, or its successor, a [CAP] for each month that the service quality measures are not met that explains the reason(s) for missing the standard(s) and the actions that the company will take to correct the causes and improve performance to a level that meets adopted measures and standards.

We require AT&T to file a CAP meeting the requirements set forth in this Resolution.

III. DISCUSSION

A. SUMMARY

As shown in Appendix A, AT&T's fine for 2021 is $3,092,400. For 2021, AT&T submitted quarterly G.O. 133-D service quality reports for the *Customer Trouble Reports*, *OOS Repair Intervals*, and *Answer Time* standards in accordance with G.O. 133-D, Section 3. For the reasons set forth below, we suspend the fine and approve AT&T's proposal to spend twice the fine amount on service quality investments in lieu of a fine. AT&T is ordered to file a Corrective Action Plan meeting all requirements set forth herein.

B. AT&T'S PREVIOUS INVESTMENT PLANS IN LIEU OF PAYING FINES

In several recent years, AT&T has proposed and been allowed to avoid fines and invest in projects represented as improving service quality. AT&T's current proposed reinvestment plan in AL 49018 and AL 49018A is its fourth plan since 2018. The Commission approved AT&T's first two reinvestment proposals in Resolution T-17625 (2018)[16] and Resolution T-17655 (2019).[17] As part of these two plans, AT&T proposed to invest a combined total of $11,805,200 in multiple projects in its service territory in California. AT&T agreed to undertake these projects in the 50 worst wire center areas where the out-of-service performance metrics were below the minimum standard of repairing at least 90% of their outages within 24 hours.

On February 18, 2020, AT&T submitted AL 48205 proposing a third investment in lieu plan of $6,444,000 in projects to improve the communications infrastructure used to provide traditional telephone service. AT&T did not describe specific projects in AL 48205 but stated that the proposed investments would primarily focus on rehabilitating existing copper facilities.[18]

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[16] AT&T's Resolution T-17625 was approved on November 8, 2018.
[17] AT&T's Resolution T-17655 was approved on May 30, 2019.
[18] AT&T's Advice Letter 48205, p.2.

In response to staff inquiries about the extent to which the prior proposals in lieu of fine had improved service quality, AT&T filed AL Supplement withdrawing its investment in lieu proposal and agreeing to pay the $3,222,000 fine for 2019 in AL 48205.

AT&T elected to pay the assessed fine of $3,129,300 for its 2020 service quality performance failures.[19]

C. AT&T AL 49018 and AL 49018A

AT&T's AL 49018 summarizes the carrier's total year 2021 service quality performance results and calculates a fine of $3,092,400 for its 2021 service quality performance failures. AT&T requests that the Commission suspend the fine and approve its proposed investment projects. AT&T proposes to invest $6,184,800 to provide new fiber-optic broadband infrastructure and services within its operating territory in California.

AT&T represents that its investment in lieu plan will prioritize project areas based on their 2021 service quality results and be in addition to its business-as-usual budgetary processes. AT&T states that the proposed investments will bring fiber to areas that currently lack the technology and reduce the number of out-of-service conditions.[20] After some delay by AT&T, the company submitted supplemental AL 49018A providing more detail on its proposed investment, on June 27, 2022. As discussed below, AL 49018 and the late-filed information (AL 49018A) do not alone provide evidence (e.g., supporting financials, construction budget, engineering, staffing base, etc.) that the proposal submitted would materially improve service for AT&T's customers, that the proposal would enable AT&T to meet the out-of-service performance metrics, or that the proposal's projected costs are in addition to AT&T's normal budgeted costs.

D. PROTESTS

On March 7, 2022, The Utility Reform Network (TURN) filed a protest against AT&T's AL 49018. TURN opposes AT&T's proposal to invest in lieu of a fine pursuant to G.O. 96-B, Rule 7.4.2(6), which states that a protest may be based on the grounds that "[t]he relief requested would be unjust, unreasonable, or discriminatory."[21] TURN argues that AT&T's proposed relief is unjust because AT&T has the capital to maintain service quality throughout its network but does not make this a priority. TURN asserts the investment in lieu proposal is unreasonable because AT&T's prior $11,805,200 investments in lieu of fines did not improve its out-of-service performance metrics.

[19] Resolution T-17736, June 24, 2021.
[20] AL 49018, pp.1-2.
[21] Protest of The Utility Reform Network of AT&T Advice Letter 49018, at 1 (March 7, 2022).

TURN also cites the Commission's Network Examinations of AT&T's performance between 2010 and 2017, claiming the proposed relief is discriminatory because low-income communities are disproportionally affected by AT&T's failure to maintain its network.[22]

TURN asserts that in the years after AT&T made investments in lieu of fines, its out-of-service performance metrics did not improve. It notes that the Commission rejected AT&T's 2019 and 2020 proposals to invest in lieu of fines, and instead imposed fines on AT&T for its failure to meet minimum service quality standards.[23]

E. AT&T'S INVESTMENT PROPOSAL IN LIEU OF FINES FOR 2021 IS INADEQUATE STANDING ALONE BUT IS APPROVED WITH THE CORRECTIVE ACTION PLAN REQUIRMENT SET FORTH HEREIN

AT&T's investment proposal in lieu of a fine is not adequate without the additional Corrective Action Plan requirements set forth herein. AT&T fails to meet its burden of proving that its investment in lieu proposal satisfies Section 9.7's requirements. Neither AL 49018 nor AL 49018A include sufficient detail or supporting financial documentation required to substantiate the company's claim that the proposed projects are incremental and in addition to AT&T's business as usual construction budgets or plans. AT&T does not provide an explanation of the underlying issues causing its lengthy service outages. This analysis is needed to explain where the specific service quality problems exist and how the company's investment proposal will address them. AT&T does not offer specific details on the proposed projects or how these projects would reduce trouble reports and improve customers' service quality in a measurable way. AT&T's proposal requests suspension of a fine and an investment in lieu but does not provide evidence showing that customers with service quality issues will see improved service as a result of the transition.[24]

Therefore, to ensure this proposal is in the public interest, the Commission will approve AL 49018 and AL 49018A and also order AT&T to file a Corrective Action Plan meeting the requirements set forth in this Resolution.

F. CORRECTIVE ACTION PLAN

AT&T must file a G.O. 133-D Section 7 Corrective Action Plan (CAP) as a Tier 3 AL no later than 60 days following issuance of this Resolution. Section 7 provides:

[22] *Id.*, at 4.2.
[23] *Id.*, at 4.1
[24] AL 49018, filed 02/15/2022.

> Carriers that fail to meet any standard for two consecutive months or more shall file with the Communications Division, or its successor, a Corrective Action Plan for each month that the service quality measures are not met that explains the reason(s) for missing the standard(s) and the actions that the company will take to correct the causes and improve performance to a level that meets adopted measures and standards.

The CAP shall cover a two-year period and contain two components: **performance assessment** and **outage assessment**. Upon review and acceptance of the CAP, the Commission will designate a start date for the assessment period.

The goal of the CAP is for AT&T to meet all GO 133-D out-of-service standards by the end of the two-year period. During this period, AT&T shall demonstrate a trend towards achieving this goal. AT&T shall submit quarterly updates during the two-year assessment period and a final report at the conclusion of the period. Quarterly updates are due no later than four weeks following the last day of the calendar quarter.[25] The final report is due no later than four weeks from the last day of the two-year period.

The CAP shall be filed as a Tier 3 Advice Letter and served on the service list for Order Instituting Rulemaking 22-03-016 (Service Quality OIR) and any parties served with or responding to the AL 49018 and/or AL 49018A. The quarterly updates and final report must be sent to CD staff,[26] served on the service list for the Service Quality OIR and sent to those who were served with or responded to AL 49018 and AL 49018A.

The **performance assessment** component must include the following information for the entire assessment period:

a. For all working lines (statewide) to include the following measurements:
    - Planned monthly <u>target</u> percentage of out-of-service repair tickets to be restored within 24 hours.[27] The targets shall be established within the Corrective Action Plan for the entirety of the two-year assessment period.
    - Actual monthly percent of out-of-service repair tickets restored within 24 hours, between 24-48 hours, between 48-72 hours, between 72-96 hours, and over 96 hours.[28] This shall be reported in quarterly updates.

[25] Calendar quarters are January through March, April through June, July through September, and October through December.
[26] Sent via email to telcoservicequality@cpuc.ca.gov. CD staff will post the quarterly updates and the final report on the CPUC webpage.
[27] Per adjusted measurements.
[28] All time intervals are per adjusted measurements.

b. Summary of all projects (statewide) addressing a deficiency in meeting GO 133-D out-of-service standard during the assessment period, including the following metrics:
   - Number of project(s) planned
   - Planned quarterly capital expenditures dollar amount including the equipment breakdown information with service improvements
   - Planned quarterly operational expenditures dollar amount including staff hours with a breakdown of information dedicated to the service improvements
   - Progress updates on the projects with actual capital expenditures, and actual operational expenditures; all shall be reported in quarterly updates.

c. Summaries (a) and (b) to report the measurements, metrics, and progress for the six reinvestment projects[29] combined

The **outage assessment** component must include the following information:

- Information on how many outages occurred in 2021 in the locations where AT&T proposes to deploy fiber, as well as the actual percent of repair tickets completed within 24 hours and the demographics[30] (median income level, percent of non-English speakers, etc.) of those locations.
- Information on how many outages will be deterred by AT&T's proposal to deploy fiber.
- Estimate of how many additional households will require fiber infrastructure upgrades to bring AT&T into compliance with out-of-service requirements.
- Network infrastructure deployments completed over the past five years and planned for the next five years.

The Commission will utilize the quarterly updates to evaluate whether AT&T has met the minimum out-of-service standard[31] and/or achieved and maintained consistent monthly improvement. If at the end of the two-year period AT&T remains in chronic failure status and fails to demonstrate that the projects have resolved the existing service quality issues, the Commission may take additional actions, including adopting an Order Instituting Investigation to consider penalties or further remedial actions, as are necessary and appropriate.

[29] Per Advice Letter 49018.
[30] Demographic information can be presented at census tract level.
[31] Minimum standard is achieving at least 90% of out-of-service trouble reports repaired within 24 hours based on adjusted measurements.

IV. RULEMAKING 22-03-016 IS ALSO EXAMINING SERVICE QUALITY

The Commission's Rulemaking (R.) 22-03-016 is considering proposed amendments to G.O. 133-D, including revisions to the *Out of Service Repair Interval*. The Commission will assess whether the existing G.O. 133-D service quality standards and measures meet the goals of the Commission and remain relevant to the current regulatory environment. Additionally, the Commission will consider whether the existing enforcement framework in G.O. 133-D is adequate to improve substandard voice communications services.

Nothing in this Resolution limits the Commission's ability to impose or AT&T's obligation to comply with other legal requirements, including but not limited to General Order 133-D or its successors, Public Utilities Code §§ 451 and 2107, and Rule 1.1 of the Commission's Rules of Practice and Procedure.[32]

V. SAFETY CONSIDERATIONS

A carrier's failure to meet G.O. 133-D service quality standards limit customers' ability to call 9-1-1 and other emergency services and restricts public safety personnel from communicating with each other during emergencies or disasters.

VI. CONCLUSION

The Commission approves AT&T's proposed investment in lieu of a fine and orders AT&T to file a Corrective Action Plain meeting the aforementioned requirements within 60 days of the issuance of this Resolution. AT&T's Corrective Action Plan shall demonstrate that its investments will improve its service quality issues. At the end of the two-year period covered by the Corrective Action Plan, AT&T must demonstrate that its investments have improved its service quality such that it meets the G.O. 133-D service quality standards. If AT&T fails to improve its service quality, the Commission will pursue additional enforcement, as described in Section III(F). The proposed fine of $3,092,400 is suspended.

VII. COMMENTS

In compliance with Public Utilities Code § 311(g), the Commission emailed a notice letter on December 9, 2022, informing all parties on the general service list of the availability of this Resolution for public comments at the Commission's website www.cpuc.ca.gov. The notice letter also informed parties that the final conformed resolution adopted by the Commission will be posted on the same website.

[32] See rules-of-practice-and-procedure-may-2021.pdf (ca.gov).

Opening Comments were submitted by Comptche Broadband Committee (CBC), The Utility Reform Network (TURN), the Public Advocates Office (PAO), and AT&T on or before December 29, 2022. Reply Comments were submitted by TURN and AT&T on January 3, 2023.

Opening Comments Summary

CBC fully supports the Draft Resolution and emphasizes the need to hold AT&T accountable for the five projects listed in Advice Letter 49018A, including a project in Comptche. CBC requests that the Ordering Paragraphs include approval of supplemental AL 49018A because the five investment projects are listed in the supplemental advice letter. CBC further suggests that if the five projects are not completed, the Commission should order the fine paid instead.

The PAO urges the Commission to modify the Draft Resolution to 1) include concrete requirements in the CAP to hold AT&T accountable in delivering measurable improvements in service quality outcomes for its customers; 2) require AT&T to comply with GO 133-D's minimum service quality standards within six months (as opposed to two years) of the adoption of the Resolution; and 3) advocate for customer protections related to notice, price, and reliability of service for any customers affected by AT&T's proposed alternative investments in fiber infrastructure. PAO also wants the Commission to require AT&T to report project timelines and locations for each investment project and how each project will measurably improve service quality.

TURN states that Commission should reject AT&T's investment proposals listed in ALs 49018 and 49018A, but approve the Draft Resolution for the CAP. Similar to the PAO, TURN wants the CAP to include additional details at a more granular level (i.e. central office location, investment project) with increased reporting frequencies (monthly), and quarterly operational expenditures, including the number of staff by job title and office. TURN urges the Commission to subject AT&T to additional penalties for failure to comply with mandatory GO 133-D requirements for monthly CAPs for providers who fail to meet service quality standards for two consecutive months or more. TURN also criticizes the Commission for approving AT&T's previous alternate investment proposals for 2017 and 2018 which did nothing to improve AT&T's overall service quality measures.

AT&T states that it is unrealistic to expect the investment plan for the five sites listed in AL 49018A to improve statewide service quality standards and opposes the need to require a CAP altogether.

Reply Comments Summary

TURN disagrees with AT&T's argument that the Commission cannot require AT&T to comply with the CAP. However, TURN agrees with AT&T's assertion that the proposed investments in lieu of fines will not improve AT&T's service quality statewide.

AT&T opposes all of PAO's recommendations stated in its Opening Comments.

Communications Division Response
The Communications Division (CD) appreciates the comprehensive and constructive Opening Comments and Reply Comments filed by the parties.

CD agrees with the Comptche Broadband Committee's Opening Comment with regards to including the approval of Advice Letter (AL) 49018A, late filing notwithstanding, and will reflect AL 49018A in appropriate Ordering Paragraph(s). At this time, the Commission will not mandate that, if AT&T fails to complete the five projects listed in AL 49018A, AT&T should instead pay the fine: some other remedy may better fit the situation. For now, we will simply note that AT&T has a legal obligation to comply with the Commission's orders, and that the Commission has broad authority to punish noncompliance.[33]

CD also agrees with AT&T that the five sites listed in AL 49018A alone will not improve statewide service quality standards. As the PAO and TURN state in their respective comments, the Draft Resolution should require more data granularity and stricter enforcement timelines and standards. While these requirements are warranted, CD believes these requirements would be better addressed in Order Instituting Rulemaking Proceeding to Consider Amendments to General Order 133 (R. 22-03-016).

AT&T's arguments against the mandatory CAP requirement are meritless. GO 133-D Section 7 authorizes the Commission to require a CAP when a carrier fails to meet any standard for two consecutive months. It is undisputed that AT&T has remained in chronic failure status for several years. Therefore, it is necessary to require a mandatory CAP which will provide the details necessary to evaluate AT&T's progress in remedying the underlying service quality issues which prevent it from meeting the GO 133-D service quality standards on a statewide level. As previously stated, and as AT&T has admitted in its comments, AT&T's investment in lieu of paying the fine is not sufficient to demonstrate that its service quality issues will be resolved or improved in a

[33] See Pub. Util. Code, § 702 ("Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees."); see also, *e.g.*, Pub. Util. Code, §§ 701, 2107, 2113.

measurable way within two years on a statewide level. Therefore, a CAP meeting the requirements set forth in this Resolution must also be provided which will provide AT&T's plan to achieve compliance with the GO 133-D standards on a statewide level.

While TURN states that AT&T files CAPs with the Commission on a regular basis, AT&T's previous CAP filings do not provide sufficient planning or details to demonstrate what projects are aimed at remedying the underlying service quality issues nor provide sufficient detail on its progress in remedying those issues. GO 133-D does not provide specific requirements for what the CAP should entail. Therefore, this Resolution orders that AT&T's CAP include the information specified in Section III.F, which will aid the Commission in ensuring that AT&T is working toward improving its service quality issues on a statewide level and in determining whether the projects are in fact remedying the service quality issues to meet the GO 133-D service quality standards.

FINDINGS OF FACT

1. G.O. 133-D, Section 9.6 directs any telephone corporation whose service quality performance does not meet the minimum standards to submit annually, by February 15 of the following year, a Tier 2 Advice Letter that shows by a month each quality measurement that did not meet the minimum standards, and the applicable fine.
2. AT&T continually failed to meet the G.O. 133-D *Out of Service Repair Interval* standard every month from January 2017 through December 2021.
3. AT&T's Advice Letter 49018 appropriately calculates the fines for 2021 payable because of the company's failure to meet the *Out of Service Interval and Answer Time* standards for the year as $3,092,400. 2021 pursuant to G.O. 133-D, Section 9.6.
4. AT&T's Advice Letter 49018 includes a request to suspend the $3,092,400 fine applicable to 2021 and a proposal to invest no less than twice the fine amounts in service quality improvement projects pursuant to G.O. 133-D, Section 9.7.
5. The burden is on the telephone corporation requesting a fine suspension pursuant to G.O. 133-D, Section 9.7 to demonstrate with supporting documentation that the proposed expenditures are incremental and directed at the service quality deficiencies leading to the fine, in an amount that is at least twice the tabulated fine.
6. The public interest requires the Commission to ensure that a G.O. 133-D, Section 9.7 investment proposal will remedy, in a measurable way, the deficiencies that led to AT&T California's fine.

7. The supplement to AL 49018 was not filed timely despite AT&T CA declaring its intention to do so.

8. AT&T California's Advice Letter 49018 and Advice Letter 49018A did not include details demonstrating that the proposed investments targeted deficiencies that led to the 2021 service quality fines applicable to AT&T California.

9. AT&T CA 's Advice Letter 49018 and Advice Letter 49018A did not offer specific details on how the proposed projects would reduce trouble reports and improve customers' service quality in a measurable way.

10. AT&T California's Advice Letter 49018 and Advice Letter 49018A did not include supporting documentation demonstrating that the investments proposed were incremental or in addition to the existing construction budget and/or staffing base.

11. AT&T California's Advice Letter 49018 and Advice Letter 49018A did not satisfy G.O. 133-D, Section 9.7's requirements.

12. Despite proposing to spend over $11,805,200 in two previously approved G.O. 133-D, Section 9.7 Alternative Proposal for Mandatory Corrective Action investment plans, AT&T California repeatedly failed to meet the minimum *Out of Service Repair Interval* standard during most of the investment periods.

13. It is not reasonable to approve the alternative investment proposal in Advice Letter 49018 and Advice Letter 49018A without additional requirements, given AT&T's continued failure to meet minimum service quality requirements.

14. A Corrective Action Plan is required under G.O. 133-D Section 7 even if the Commission approves any aspect of a carrier's Advice Letter.

15. It is reasonable to order AT&T to provide the information set forth in this Resolution in its Corrective Action Plan.

16. AT&T has been out of compliance with the Commission's service quality standards since at least 2017.

17. AT&T continues to be in chronic failure status and continues to incur fines for its failure to meet service quality standards.

18. On December 9, 2022, the Commission emailed a draft of this Resolution to all parties on the general service list for public comments.

CONCLUSIONS OF LAW

1. It is reasonable to accept the calculation of fines set forth in this Resolution, which apply to AT&T California for the year 2021, in the amount of $3,092,400.

2. It is reasonable to require a telephone corporation requesting a fine suspension pursuant to G.O. 133-D, Section 9.7 to demonstrate that it is in the public interest for the Commission to approve the request.

3. It is reasonable to accept the investment in lieu of fine proposal provided by AT&T California for the year 2021, in the amount of no less than twice the 2021 fine of $3,092,400, in addition to a Corrective Action Plan.

4. It is reasonable to require AT&T to submit a Corrective Action Plan addressing its chronic noncompliance with the Commission's service quality requirements and to include the information set forth in Section III(F) of this Resolution.

5. It is reasonable for Commission staff to pursue additional enforcement against AT&T if it fails to demonstrate that its investments have improved its service quality such that it meets the G.O. 133-D minimum service quality standards.

6. This Resolution does not limit the Commission's ability to impose or AT&T's obligation to comply with other legal requirements, including but not limited to General Order 133-D or its successors, Public Utilities Code §§ 451 and 2107, and Rule 1.1 of the Commission's Rules of Practice and Procedure.

THEREFORE, IT IS ORDERED that:

1. The California Public Utilities Commission approves the request in AT&T California's (U-1002-C) Advice Letter 49018 and 49018A for approval of an investment proposal in lieu of a fine in the amount of $3,092,400 for 2021. The investment shall be in the amount of no less than $6,184,800 and shall meet all of the requirements of General Order 133-D Section 9.7.

2. AT&T California shall provide within 60 days of the effective date of this Resolution a Corrective Action Plan (CAP) containing the information in Section III(F) of this Resolution. The CAP shall be filed as a Tier 3 Advice Letter (AL) and served on the service list for the Service Quality OIR, Commission staff, and the recipients of and respondents to AL 49018 and AL 49018A.

3. AT&T California shall provide quarterly updates within four weeks from the last day of each quarter during the two-year assessment period. The updates shall be served on the Communications Division staff and the service list for the Service Quality OIR.

4. AT&T California shall provide the final report within four weeks from the last day of the two-year assessment period. The updates shall be served on the Communications Division staff and the service list for the Service Quality OIR.

5. If at the end of the two-year period AT&T has not come into compliance with GO 133-D, the Commission may take additional actions, including adopting an Order Instituting Investigation to consider penalties or further remedial actions, as are necessary and appropriate.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the California Public Utilities Commission at its regular meeting on January 12, 2023. The following Commissioners approved it:

/s/RACHEL Peterson
Rachel Peterson
Executive Director

ALICE REYNOLDS
President
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN REYNOLDS
Commissioners

APPENDIX A – CALCULATION OF FINE

Using the formula set forth in G.O. 133-D, AT&T's service quality fine for 2021 is $3,092,400. The following is the detailed calculation:

1. 2021 Scaling Factor

G.O. 133-D assigns fine amounts using base values specified in Sections 9.3, 9.4, and 9.5, adjusted through a formula expressing the relative size of the carrier within the California market. The scaling factor formula is expressed below, with results shown in the table:

(Carrier's Access Lines / Total CA Access Lines) = **Carrier's Scaling Factor**
(Carrier's Scaling Factor) x (Monthly Base Fine per Measure) x (Number of Months in Chronic Failure) = **Fine**

2021 Working Lines and Scaling Factor for Carriers Paying Fines, G.O. 133-D		
Carrier	**2021 Access Lines**	**Scaling Factor**
AT&T	1,380,920	34.36%

2. Specific Fines for Each G.O. 133-D Standard

G.O. 133-D sets forth specific fines applicable for each of the five service quality standards.

a. *Out of Service Repair Interval*

The *OOS Repair Interval,* defined in § 3.4, measures the average interval between the time acarrier responds to out-of-service trouble reports and the restoration of the customer's service. A carrier measures its average interval by dividing the number of out-of-service repair tickets restored within 24 hours by the number of reports received. The Minimum Standard Reporting Level for the *OOS Repair Interval* is 90% of outages restored within 24 hours or less.

The fine structure for this standard is calculated using the following criteria:

Base *Out of Service Repair Interval* Fine,G.O. 133-D, Section 9.3		
	1 or 2 Consecutive Months of Standard Not Met	**3 or more Consecutive Months of Standard Not Met**
Fine (per day)	$0 per day	$25,000 per day
Days in a Month (for all months)	30 days	30 days
Fine (per month)	$0	$750,000 per month

AT&T failed to meet the *OOS Repair Interval* standard for all twelve months in 2021[34]:

AT&T 2021 Reporting for *Out of Service Repair Interval* G.O. 133-D, Section 3.4 – 90% minimum												
Month	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**July**	**Aug**	**Sept**	**Oct**	**Nov**	**Dec**
% of OOS Reports resolved within 24 hours	37.5%	38.6%	55.8%	57.1%	60.3%	57.8%	59.2%	62.3%	58.3%	52.5%	57.7%	26.6%
Outage Reports	21,837	22,285	15,193	13,251	11,848	12,872	12,384	13,106	12,585	17,070	25,473	23,647
Average Duration	75.7 Hours	74.8 Hours	44.0 Hours	62.1 Hours	35.8 Hours	36.7 Hours	34.8 Hours	36.8 Hours	42.8 Hours	50.6 Hours	101.5 Hours	89.6 Hours

AT&T did not meet the standard from January through December 2021. Prior to this, the carrier also failed to meet the *Out of Service Repair Interval* standard in every month since 2016, when the Commission adopted G.O. 133-D.[35] As a result, AT&T has been in "chronic failure status" and incurring fines for each month of substandard service quality performance in the year 2021.[36]

[34] For the month(s) the carrier did not meet the minimum standard, the percentage is represented in red. For the month(s) that incurred a fine, the percentage is represented in red with an underline.

[35] The Commission adopted G.O. 133-D in D.1608021 on August 18, 2016.

[36] According to G.O. 133-D § 9.1, "A carrier will begin incurring a fine for these measures when it reaches a "chronic failure status," which is failure to meet the minimum standard for three consecutive months. No fines will be assessed for missing the first two months… The fine does not end and restart when the calendar reporting year ends and a new year begins. A carrier exits chronic failure status after it meets the standard for two consecutive months."

AT&T calculated its fine based on being in "chronic failure status" for not meetingthe

OOS Repair Interval standard for all the twelve months from January through December 2021.

Staff, therefore, agrees with AT&T's fine calculations in AL 49018, as shown below.

Fine = (Carrier's Scaling Factor 34.36%) X (Monthly Base Fine per Measure $750,000) X (Number of Months in Chronic Failure 12) = **$3,092,400**

b. Customer Trouble Reports

The *Customer Trouble Reports* standard, defined in Section 3.3, measures the number of reports a carrier receives from its customers regarding their dissatisfaction with telephone company services. The Minimum Standard Reporting Level for the *Customer Trouble Reports* measurement varies based on the number of working lines per reporting unit.

AT&T met the *Customer Trouble Reports* standard from January through December 2021.

c. Answer Time for Trouble Reports and Billing and Non-Billing Inquiries

The *Answer Time* standard, defined in Section 3.5, measures the amount of time it takes for an operator to answer the phone when customers call a business office for billing and non-billing inquiries or a repair office for trouble reports.[37] The value is calculated as an average answer time of a sample of the answering interval of calls to business and repair offices that is representative of the reported period.

The Minimum Standard Reporting Level for *Answer Time* is 80% of calls answered by an operator within 60 seconds when speaking to a *live* agent, or 80% of calls answered within 60 seconds when speaking to a live agent after completing an interactive voice response or automatic response unit system.

AT&T met the *Answer Time* minimum standard from January through December in the year 2021.

[37] § 3.5 for the *Answer Time* standard applies to Time Division Multiplexing-based voice services provided by GRC ILECs, facilities-based URF carriers with 5,000 or more customers, and any URF carrier with fewer than 5,000 customers that are a carrier of last resort.

d. Installation Interval and Commitments

The standards for *Installation Interval* and *Installation Commitments*, as defined in Section 3.1, apply only to the GRC ILECs. As a result, AT&T is not subject to these standards and thus did not submit data for them.

3. Total Fine Amount for AT&T

Based on the scaling factors and the number of months AT&T failed to meet the minimum service quality performance standards, AT&T is subject to the followingfine for the year 2021:

Service Quality Standard	**AT&T (U-1002-C)**
Out of Service Repair Interval	$3,092,400
Total	**$3,092,400**

End of Appendix A