

State and Federal Carrier of Last Resort (COLR) Obligations

The member companies of the Telephone Association of Vermont (“TAV”) operate as **Carriers of Last Resort (COLRs)** in their respective incumbent territories.

Summary

- **As providers of voice and broadband services, COLR are required: (1) to offer universal voice and broadband service throughout an area; (2) to serve any customer who requests service in that area, and (3) to step in and serve customers if competitive providers are unable or unwilling to serve.**
- **A COLR is subject to a bundle of regulatory and legal requirements under both federal and Vermont law.**
- **Competitive providers are subject to some of the same legal requirements as COLRs but only COLRs are subject to all of the requirements.**

Background

- The term “Carrier of Last Resort” is not found in statute or rule but instead has its roots in the regulatory framework established with the enactment of the federal Telecommunications Act of 1996 (the “Act”). The Act opened up local telephone service to competition, and as a result, federal and state regulation recognized the distinction between an ***incumbent local exchange carrier*** (“ILEC”) and a ***competitive local exchange carrier*** (“CLEC”).
- **The TAV member companies are all ILECs**—providers who were already offering basic local exchange service before the Act became law. By contrast, CLECs are providers who began offering service after the enactment of the Act. CLECs offer competitive service in the areas traditionally served by ILECs. **As ILECs, the TAV member companies have special, ongoing regulatory obligations under federal and state law.**
- ILECs are required to offer service universally throughout their respective territories and to provide service to any customer in the territory who requests it. By contrast, CLECs can pick and choose their customers—and can even discontinue offering service altogether—so long as there is an ILEC available who can step in to serve customers when a CLEC is unable or unwilling to serve.
- **ILECs are thus considered to be “carriers of last resort”: providers that are obliged to offer universal service throughout an area, to serve any customer who requests service in that area, and to step in to serve customers of a competitive provider if the competitive provider is unable or unwilling to serve.**

Federal COLR Obligations

- “Incumbent local exchange carrier” is a term defined in federal law (47 U.S.C. § 251(h)). ILECs have special obligations under federal law to promote and implement competition (See 47 U.S.C. § 251(c)). These include the duty to negotiate with competitive carriers, to interconnect their ILEC networks with competitive carriers, to resell their services at wholesale prices to competitive carriers, and to provide space on their property for the facilities and equipment of competitive carriers.
- ILECs are also required to provide universal service throughout their territories. The federal Universal Service Fund (“USF”) was originally created to help build and maintain voice networks. **But in 2011, the Federal Communications Commission renamed it the “Connect America Fund” (“CAF”) and expanded its scope to include federal support for broadband Internet access service (“BIAS”) as well as voice service.**
- To be eligible to receive CAF support, a carrier must first be designated as an **Eligible Telecommunications Carrier** (“ETC”). ETC designation is the threshold requirement for all federal broadband funding, from CAF support to the broadband grants and loans that were allocated to the states under ARPA and IIJA.
- **All of the TAV companies are designated as federal ETCs for their rural “study areas.”**
- Competitive providers can obtain ETC designation for certain limited purposes (such as providing Lifeline service to low-income customers or eligibility for federal broadband construction grants), **but only ILECs may receive ongoing CAF support**, including Broadband Loop Support (CAF-BLS) and enhanced Alternative CAF support (e-ACAM).
- Recipients of CAF support are subject to **strict oversight compliance and regular federal reporting obligations** at the Federal Communications Commission (“FCC”) and the Universal Service Administrative Company (“USAC”).
- **CAF funding requires recipients to meet ongoing broadband buildout requirements to achieve universal broadband availability at specific speeds (currently defined as 25/3 Mbps broadband service to 100% of unserved locations by December 31, 2027).**

State COLR Obligations

- Vermont law classifies **ILECs as Dominant Carriers** and **CLECs as Nondominant Carriers** (30 V.S.A. § 227c). Under PUC Rules, **Nondominant Carriers** are exempted from a wide array of regulatory requirements, while those requirements continue to apply to **Dominant Carriers**. See PUC Rule 7.500.
- The Dominant/Nondominant classification recognizes that ILECs have market power to set rates in their territories, but also that **ILECs own critical network infrastructure in their territories**, and so they must remain subject to state oversight of their corporate governance and finances, and they cannot abandon any services or customer locations without prior regulatory authorization from the PUC. See PUC Rule 7.505(B).
- In 2014, the General Assembly expanded the scope of the existing Vermont Universal Service Program to **add broadband funding to the State High Cost Fund** (30 V.S.A. § 7515(a)). A carrier meeting the requirements for designation as a federal ETC could apply for state designation as a “Vermont-eligible telecommunications carrier” (“VETC”) (30 V.S.A. § 7515(b)).
- **Most of the TAV companies have been continuously designated as VETCs since 2014.** The VETC designation is not available to CLECs because they do not “meet[] all requirements for designation as an ‘eligible telecommunications carrier’” as defined by the FCC” under 30 V.S.A. § 7515(b).
- Under current law, “a VETC **shall provide broadband internet access** at speeds no lower than 25 Mbps download and 3 Mbps upload in each high-cost area it serves within five years of designation.” (30 V.S.A. § 7515(g).)
- The Vermont High-Cost Program nominally provides VETC funding to support broadband access—but only *after* paying for a long list of other communications priorities (e.g., service for the hearing-impaired, Vermont Lifeline service, E911 service, and, most recently, the 988 Suicide Crisis Lifeline). See 30 V.S.A. § 7511(a)(1)(A)-(E). **VETCs have not received any broadband funding support from the Vermont High-Cost Program in many years.**

Table 1 below summarizes the COLR obligations under federal and Vermont law.

Table 1. Summary of Carrier of Last Resort (COLR) Obligations

Classification	Jurisdiction	Statute/Rule	Requirements
Incumbent Local Exchange Carrier	Federal/Vermont	47 U.S.C. § 251(h); 47 U.S.C. § 251(c)	Special obligations to promote and implement competition in local service
Eligible Telecommunications Carrier (ETC)	Federal/Vermont	47 U.S.C. § 214(e); 47 C.F.R. § 54.101(c); redesignation by Vermont PUC every 5 years	Voice-grade telephony service; broadband service at speeds of at least 10/1 Mbps. 5-year ETC designations must be renewed at Vermont PUC
▪ Connect America Fund-Broadband Loop Support (CAF-BLS)	Federal/Vermont	47 C.F.R. § 54.901; annual PUC Certification docket	Must be an ETC and a rate-of-return carrier (i.e., ILEC serving in a rural area). Multiple annual and quarterly reports to USAC (47 C.F.R. § 903(a)-(b)). Annual docket at PUC to certify recipients as compliant with federal requirements.
▪ CAF-High Cost Loop Support	Federal/Vermont	47 C.F.R. § 54.1301; annual PUC certification docket	Must be a rural ILEC-ETC and a rate-of-return carrier (47 C.F.R. § 54.1302). Annual cost study submitted to National Exchange Carrier Association (NECA) for compilation and submission to the FCC and USAC (47 C.F.R. § 54.1305). Annual docket at PUC to certify recipients as compliant with federal requirements.
▪ Enhanced Alternative CAF Model Support (e-ACAM)	Federal/Vermont	47 C.F.R. § 54.311(a)(4); 47 C.F.R. § 54/308(a)(3); annual PUC compliance report	Must be an ETC and rate-of-return carrier. Specific broadband buildout requirements each year to achieve 25/3 Mbps service to 100% of underserved locations by December 31, 2027. Annual docket at PUC to certify recipients as compliant with federal requirements.
Vermont-Eligible Telecommunications Carrier (VETC)	Vermont	30 V.S.A. § 7515(a) & (g)	Provide broadband access at no less than 25/3 Mbps in each high-cost area within 5 years of designation
Dominant Carrier	Vermont	30 V.S.A. § 227c; PUC Rule 7.500	Continue to require PUC approval for an array of corporate organization & finance transactions