



FILED

8-28-14

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of Kerman Telephone Co. (U1012C) d/b/a Sebastian, to Review Intrastate Rates and Charges and Rate of Return for Telephone Service Furnished within the State of California, and to Modify Selected Rates.

Application 11-12-011
(Filed December 28, 2011)

**SECOND AMENDED SCOPING MEMO AND RULING OF
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

This Amended Scoping Memo and Ruling revises the scope and procedural schedule for this proceeding following the prehearing conference held on May 20, 2014.

1. Background and Relevant Procedural History

In December 2011, Kerman Telephone Company d/b/a Sebastian (Kerman) filed this General Rate Case (GRC) application requesting review of its revenue requirement and an increase in net intrastate revenues of \$2.9 million. The proposed increase in revenue requirement equated to a proposed California High Cost Fund-A (CHCF-A) draw by Kerman for test year 2013 of \$6.49 million. Kerman's GRC application did not request a change to its basic residential local exchange rate of \$20.25, but requested other selected rate changes such as charges for Extended Area Service, premise visits, inside wire, intra-building network cable, and returned checks. On January 26, 2012, the Division of

Ratepayer Advocates¹ protested Kerman's GRC application requesting that it be stayed during the pendency of Order Instituting Rulemaking (R.) 11-11-007, in which the Commission is currently conducting a detailed review of the CHCF-A program pursuant to Decision (D.) 10-02-016. ORA's protest in A.11-12-011 reflected the same concerns raised in its January 18, 2012, motion filed in R.11-11-007, i.e., to freeze the "waterfall" provisions of the CHCF-A,² stay of A.11-12-011, and suspension of processing all CHCF-A company GRC applications until completion of R.11-11-007. The ALJ assigned to R.11-11-007 denied ORA's motion for a stay of A.11-12-011, finding that the request to stay should be considered in A.11-12-011. Subsequently, in R.11-11-007, on October 15, 2012, the Small LECs³ filed a motion for a one-year freeze in the CHCF-A Rate Case Schedule and "waterfall mechanism."

On June 15, 2012, in A.11-12-011, following two prehearing conferences (PHCs), concerning the scope and schedule for the proceeding, on June 15, 2012, the assigned Commissioner and Administrative Law Judge issued a Scoping Memo and Ruling (June 15 Scoping Memo) that identified two threshold issues to be briefed and decided by the Commission prior to the scheduling of ORA's testimony and evidentiary hearings. The two "threshold" issues identified in

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates in September, 2013.

² Under the "waterfall" provision, a small LEC's CHCF-A subsidy level is set at 100% for the first three years following completion of a GRC, and reduced to 80% the fourth year, 50% the fifth year, and zero thereafter.

³ The Small LECs include Calaveras Telephone Co., Cal-Ore Telephone Co., Ducor Telephone Co., Foresthill Telephone Co., Kerman Telephone Company, Pinnacles Telephone Company, the Ponderosa Telephone Company, Sierra Telephone Company, Inc., the Siskiyou Telephone Company, and Volcano Telephone Company.

Kerman's GRC are: 1) whether to freeze Kerman's revenue requirement and CHCF-A draw at current levels until the Commission concludes or reaches its decision in R.11-11-007, and 2) the timing of Kerman's future GRC filing if its CHCF-A draw and waterfall are frozen.

Upon request by the parties, the Administrative Law Judge (ALJ) in A.11-12-011 extended the date for briefing the "threshold" issues twice, first to June 28, 2012, and then again to July 2, 2012. On June 29, 2012, Kerman and DRA submitted a Joint Motion for adoption of an all-party settlement and advised the ALJ that hearings would not be necessary. Among other things, the Settlement Agreement would have increased Kerman's CHCF-A draw by \$831,735 for test year 2013.

The Commission rejected the settlement proposal in D.12-12-003, finding it was not reasonable in light of the whole record, and that it was not in the public interest, and thus, fell short of the requirements for adoption of a settlement agreement set forth in Article 12 of the Commission's Rules of Practice and Procedure.⁴ In addition, the Commission found that it was "premature to allow an increase in the CHCF-A draw for Kerman at this time."⁵

Pursuant to D.12-12-003, the Commission would next issue a decision on the two threshold issues set forth in the June 15 Scoping Memo, based on filed comments on the questions of whether to freeze Kerman's CHCF-A subsidy until a final decision issued in R.11-11-007, and Kerman's next GRC filing date.

Thereafter, on January 9, 2013, Kerman filed a motion in this proceeding requesting that the Commission grant Kerman immediate interim rate relief in

⁴ D.12-12-003, Conclusion of Law 4 at 15, line 1.

⁵ D.12-12-003, at 8-9.

the form of additional CHCF-A funds for calendar year 2013, and continuing until A.11-12-011 is fully adjudicated. Specifically, Kerman requested that the Commission grant it an additional \$1,969,907 in CHCF-A funding for calendar year 2013 (for a total of \$5,412,943) through interim rates, subject to true-up when a final decision issues in this proceeding.⁶ Kerman's request equates to a 56% increase in its A-fund subsidy.⁷

On January 24, 2013, ORA filed a response opposing Kerman's motion for interim rate relief, and recommending coordination of the issue of whether to increase Kerman's CHCF-A subsidy with the concurrent R.11-11-007 proceeding "to ensure consistent and nondiscriminatory treatment between the Small LECs."⁸ On February 26, 2013, the assigned Commissioner in A.11-12-011 issued an Amended Scoping Memo and Ruling, clarifying that since the issuance of D.12-12-003, the scope of the A.11-12-011 is now whether: (1) an interim rate increase is warranted; (2) Kerman's GRC should be stayed until completion of R.11-11-007; and (3) if the Kerman GRC application is stayed, its CHCF-A draw should be frozen at its current level of 100%. Parties filed opening and reply briefs on the identified issues on March 7, 2013 and March 21, 2013, respectively.

2. CHCF-A Rulemaking Proceeding

On February 20, 2013, the Commission issued D.13-02-005 in R.11-11-007. D.13-02-005 granted a one-year stay of the Small LECs' pending GRC proceedings and a one-year freeze in the Small LECs' CHCF-A waterfall provisions. However, Kerman was exempted from D.13-02-005. D. 13-02-005

⁶ Kerman Motion at 10, line 14.

⁷ Kerman Motion at 10, line 14.

⁸ January 28, 2013 ORA Response at 2.

determined that Kerman's GRC request would be addressed in A.11-12-011. D.13-02-005 also provided the parties with the opportunity to request a six month extension of the freeze and stay after September, 2013.

On May 22, 2013, a Scoping Memo and Ruling of the Assigned Commissioner (Rulemaking Scoping Memo) was issued in R.11-11-007. The Rulemaking Scoping Memo adopted and confirmed the initial scope set forth in the OIR, and identified additional issues based on the comments, the results of the PHC and the passage of Senate Bill (SB) 379. The Rulemaking Scoping Memo adopted a procedural schedule, with a Proposed Decision anticipated in the fourth quarter of 2013.

On November 18, 2013, ORA filed a motion for an extension of the stay and freeze of D.13-02-005, which was granted on December 31, 2013. On March 18, 2014, the assigned Commissioner in R.11-11-007 issued an Amended Scoping Memo and Ruling, revising the scope of the OIR and dividing it into two phases. Phase 1 of R.11-11-007 is scheduled to conclude with a decision issued By December 31, 2014.

The March 18, 2014 Assigned Commissioner's Scoping Memo and Ruling identifies eight policy issues, further divides those eight issues into two separate phases of the rulemaking proceeding. The first phase of R.11-11-007 is ongoing; testimony has been served, and evidentiary hearings are expected to begin as scheduled on September 2, 2014. A proposed decision in the first phase is anticipated in December, 2014.

On August 14, 2014, D.14-08-010, issued in R.11-11-007. D.14-08-010 extends the waterfall provision and freeze of the other Small LECs', GRCs for another six months, with the potential for two additional extensions.

3. Current General Rate Case Stay and Waterfall Mechanism Freeze

D.13-10-051, issued in A.11-12-011 on November 4, 2013, denied Kerman's motion for an interim rate increase requesting a total of \$5,412,943 from the CHCF-A program, and ordered a stay of Kerman's pending rate case application (A.11-12-011) until December 31, 2013. D.13-02-005 also provides the stay may be extended for up to six months.⁹ D.13-10-051 also froze Kerman's CHCF-A draw at 100%.¹⁰

D.13-10-051, as modified by D.14-02-044, found that Kerman's request for interim relief would result in an even greater increase in the CHCF-A draw than the request denied by D.12-12-003. The Commission stated that it would continue processing A.11-12-011, and it intends to set rates in accordance with Public Utilities Code sections 451, 454, 455, and 726, but must do so in an administratively feasible manner.¹¹ D.13-10-051, as modified by D.14-02-044, further ordered the rate proceeding to be adjudicated as soon as possible following the conclusion of R.11-11-007.

Another PHC was held on May 20, 2014. It addressed, among other things, whether the stay imposed on A.11-12-011 should be extended, and if so, for how long. The PHC also addressed the updates to A.11-12-011 in light of the passage of time.

During the May 20, 2014 PHC, ORA requested a further extension of the stay granted by D.13-10-051 as modified by D.14-02-044, so that Kerman's

⁹ D.13-10-051 at 21.

¹⁰ Other features of the CHCF-A program remain in effect during the freeze, e.g., annual CHCF-A funding adjustments via the Advice Letter process.

¹¹ Hereafter all statutory references are to the Public Utilities Code unless otherwise indicated.

pending GRC will proceed following issuance of a final decision in R.11-11-007.¹² Kerman objected to ORA's request.

This ruling takes into consideration ORA's request for a continued extension of the freeze imposed on A.11-12-011, along with the revised scope and schedule adopted in R.11-11-007.

We expect a final decision on Phase 1 of R.11-11-007 will allow Commission Staff and other parties to turn their attention and time to A.11-12-011. Therefore, we intend to restart the instant proceeding in anticipation of a decision in Phase 1 of R.11-11-007 in December 2014. By this ruling we set a schedule that provides for a modified GRC application and intervenor testimony to be filed as soon as possible to coincide with the conclusion of the first phase of R.11-11-007, consistent with the Commission's determination in D.13-10-051, as modified by D.14-02-044. At that time, a significant number of the scoping issues identified in the March 18, 2014, Assigned Commissioner's revised Scoping Memo and Ruling in R.11-11-007 will have been determined, and Commission Staff and other parties should encounter fewer time constraints.

4. Scope of Issues

As a result of the stay in this proceeding, the scope of this proceeding is subject to revision pending receipt and review of Kerman's modified application. However, at a minimum, the scope for this proceeding shall include:

1. Determination of the appropriate revenue requirement for Kerman.

¹² Reporter's Transcript at 132: 18-28.

2. Determination of the appropriate rate of return for Kerman.
3. Review of Kerman's rates and charges and sources of supplemental intrastate funding through the CHCF-A.
4. Determination of whether the proposals contained in Kerman's to-be-filed modifications to A.11-12-011 are reasonable, consistent with Sections 275.6, 451, 454, 455, and 726.
5. Identification of all Kerman affiliates and the affiliate revenues, consistent with section 275.6.
6. Determination of whether any past or present capital investments, used partially or exclusively by Kerman's affiliates, are included in Kerman's rate base calculations.
7. Determination of whether Kerman meets the requirements set forth in section 275.6(d) concerning participation in the CHCF-A program.
8. Identification and assessment of any safety considerations raised by Kerman's application.

The scope of our proceeding must include all relevant information necessary to determine whether the applicant's proposed revenue requirement and other requests are just and reasonable, and permit the utility to fulfill its safety duties under section 451.

5. Schedule

The initial schedule for the proceeding is set forth below:

Item	Date
Update to Application 11-12-011	November 1, 2014
Intervenor Testimony Served	March 2, 2015
Kerman Reply Testimony Served	March 25, 2015
Evidentiary Hearings	April, 2015

Opening Briefs	May, 2015
Reply Briefs	May, 2015
Proposed Decision	No later than 90 days from submittal

It is anticipated that this case will be submitted with the filing of reply briefs. The above schedule anticipates a final decision the third quarter of 2015. The assigned Commissioner or administrative law judge (ALJ) may change the schedule and scope as necessary to provide full and fair development of the record. Consistent with Public Utilities Code Section 1701.5, we expect this proceeding to be concluded within 18 months of the date of this amended scoping memo.

6. Assignment of Proceeding

Michel P. Florio is the assigned Commissioner, and Julie Halligan is the Administrative Law Judge and Presiding Officer in this proceeding.

Therefore, **IT IS RULED** that:

1. The scope of this proceeding is set forth above.
2. The assigned Commissioner and Administrative Law Judge may make revisions or provide further direction regarding the scope of this proceeding and the manner in which issues shall be addressed, as may be necessary for the full and complete development of the record.

3. The assigned Commissioner and Administrative Law Judge may modify the schedule adopted herein as necessary for the reasonable and efficient conduct of the proceeding.

Dated August 28, 2014, at San Francisco, California.

/s/ MICHEL PETER FLORIO

Michel Peter Florio
Commissioner

/s/ JULIE M. HALLIGAN

Julie M. Halligan
Administrative Law Judge