

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking into the
Review of the California High Cost Fund
A Program.

Rulemaking 11-11-007
(Filed November 10, 2011)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES
ON THE PROPOSED GENERAL RATE CASE PLAN
OF COMMISSIONER SANDOVAL**

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I. INTRODUCTION

In response to the request by Commissioner Sandoval in her Second Amended Scoping Memo issued on December 9, 2014, the Office of Ratepayer Advocates (ORA) submits the following comments on a proposed General Rate Case (GRC) Plan attached to the Second Amended Scoping Memo.

**II. A GRC PLAN IS NECESSARY FOR THE EFFICIENT
RESOLUTION OF SMALL LOCAL EXCHANGE CARRIER
GENERAL RATE CASES**

In order to better ensure the Commission's ability to meet the statutory requirements pertaining to the timely and thorough resolution of the Independent Small Local Exchange Carriers' (Small LECs) GRC applications, ORA recommends the Commission adopt a comprehensive GRC Plan applicable to the Small LECs that receive subsidies from the California High Cost Fund-A (CHCF-A) program.¹ In addition to addressing Governor Brown's recent directive to the Commission to timely process GRC applications,² the adoption of a comprehensive GRC Plan is essential for balancing the

¹ Public Utilities (PU) Code §1701.5 and §314.5.

² Governor's Veto Message of Assembly Bill 1693 (Perea, 2014).

workload of the Commission and the staff assigned to analyze and provide recommendations consistent with the public interest.

III. A LIST OF MINIMUM DATA REQUIREMENTS IS A CRITICAL COMPONENT OF ANY PRACTICAL GRC PLAN

A successful GRC Plan must contain minimum requirements for data the Commission requires the Small LECs to provide when filing their GRC applications to change rates or receive CHCF-A subsidies. In addition, a good GRC plan should establish a timely filing and processing schedule.³ As the Commission noted in its adoption of a rate case plan for water utilities, the use of Minimum Data Requirements (MDRs) is intended to “streamline the formal discovery process during a GRC or a cost of capital proceeding.”⁴ The Commission and its staff of analysts, attorneys, and judges should not be placed in the difficult position of being required to evaluate incomplete or insufficient data within the statutorily determined timeframe for a GRC.

Additionally, an obligation to include responses to pre-established MDRs helps guarantee that a similar standard of review is consistently applied when the Commission evaluates the reasonableness of a Small LEC’s rates and requests, which are a recurring process.

In fact, the inclusion of MDRs is so critical to the ability of the Commission to thoroughly, uniformly, and consistently evaluate GRC applications in a timely manner that the objective determination of whether a proposed GRC application contains the minimum data necessary should rest with the staff primarily responsible for analyzing that GRC application. To avoid time-consuming and inefficient discovery disputes pertaining to the provision of basic information which can lead to needless motions and rulings, the Commission should allow a Small LEC’s GRC application to be filed only after it has been found to contain the minimum necessary data as verified by the staff

³ Based on the priority of elements comprising a GRC Plan, ORA has emulated the filing and processing schedule proposed in the Second Amended Scoping Memo and focused its comments on other critical elements.

⁴ D.07-05-062, page 21.

ultimately responsible for performing the analysis. This is the same process that has been effectively utilized for more than ten years by the Commission in processing the Class A water utilities' GRC applications⁵ and it is the process that the Commission should adopt in the instant proceeding.

To facilitate the establishment of the needed MDRs applicable to the Small LEC's GRC applications, attached is ORA's proposed General Rate Case Plan that details the relevant MDRs and the deficiency review process that should be adopted to streamline the process and improve regulatory efficiency.⁶

IV. TEMPORARY ADJUSTMENTS ARE NEEDED TO THE WATERFALL PROVISIONS DURING THE FIRST CYCLE OF GRC APPLICATIONS

In ORA's attached GRC Plan (Attachment A), the "waterfall" mechanism (phase-down of CHCF-A support) is suspended for all Small LECs during the first cycle of GRC applications. Suspension of the waterfall mechanism during the first complete cycle of GRC applications would mitigate the potential implications for a Small LEC appearing in a later filing group. After the first complete cycle of GRC applications, the waterfall mechanism would be effectively rendered moot as GRC applications would be required every three years for each Small LEC that continues to receive CHCF-A support. In addition to guaranteeing that Small LECs' rates and CHCF-A support are prudent and reasonable, the mandatory three-year filing cycle and establishment of MDRs would assist the Commission in meeting the statutory requirement that it inspect and audit the books and records of Small LECs on a regular basis.⁷

⁵ Established in D.04-06-018 and modified in D.07-05-062.

⁶ Attachment A. It should be noted that the Assigned Commissioner's proposed GRC plan contains no MDRs.

⁷ PUC §314.5: The commission shall inspect and audit the books and records for regulatory and tax purposes (a) at least once in every three years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving over 1,000 customers, and (b) at least once in every five years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving 1,000 or fewer customers. An audit conducted in connection with a rate proceeding shall be deemed to fulfill the requirements of this section.

V. ADDITIONAL REGULATORY EFFICIENCY CAN BE OBTAINED BY DEVELOPING A STANDARD PROCESS FOR DETERMINING AUTHORIZED RATES OF RETURN

To minimize the number of contentious issues within GRC applications and ensure that an equitable cost of capital is efficiently determined and uniformly applied when the Commission authorizes revenue requirements in a GRC, any effective GRC plan should ensure that the Small LECs participate in a standardized cost of capital proceeding every three years.⁸

Consolidating the Commission's review of the Small LEC's cost of capital into a single proceeding separate from GRC applications can improve regulatory efficiency by standardizing a primary cost component of the Small LEC's revenue requirements. A consolidated cost of capital proceeding has a well-established precedent in both energy and water Commission decisions. The process for establishing similar process for the Small LECs is detailed in the attached ORA proposed Rate Case Plan.

VI. A SIMPLER PROCEDURAL ALTERNATIVE SHOULD BE AVAILABLE FOR SMALL LECS MEETING CERTAIN CRITERIA

For Small LECs able to demonstrate the availability and adequacy of minimum data requirements, a simpler procedure than the filing of a formal GRC application should exist. Similar to the procedures that exist for the Commission's water utilities, the attached ORA proposed GRC Plan outlines a process for Small LECs to request and submit a GRC through a Tier III advice letter filing.

VII. TO AVOID UNNECESSARY RATEPAYER EXPENSE, THE COMMISSION SHOULD EXPEDITIOUSLY ADOPT A PRACTICAL GRC PLAN

The GRC Plan attached to the Scoping Memo for parties' comments proposes the first group of Small LECs file their GRC applications in December 2015. However, with

⁸ It should be noted that ORA proposed to standardize the Small LECs' rates of return on equity, an issue that has been moved from Phase I to Phase II of this proceeding. A standardized cost of capital proceeding does not necessarily mean that *all* participating Small LECs would be authorized *identical* rates of return. ORA's testimony on standardizing costs of capital was stricken from Phase I. See ALJ Ruling of August 11, 2014.

the current suspension of the waterfall mechanism expiring April 1, 2015, Small LECs can be expected to begin preparing their GRCs immediately and possibly incur costs (likely at the expense of ratepayers) to gather, analyze, and present data that would be rendered irrelevant or obsolete if they find themselves in one of the as-yet-to-be determined groups filing GRCs in subsequent years.

In order to avoid the additional and unnecessary expense of preparing GRC applications that may not be due until December 2015 or later, ORA encourages the Commission expeditiously adopt a General Rate Case Plan for the Small LECs. Towards this goal, the attached ORA GRC plan should be adopted.

Respectfully submitted,

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