

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
6-15-15
04:59 PM

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 COMMISSIONER SANDOVAL'S PROPOSED DECISION**

I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), the Office of Ratepayer Advocates ("ORA") hereby files its comments on Commissioner Sandoval's Proposed Decision ("PD") adopting a General Rate Case ("GRC") Plan For California High Cost Fund-A ("CHCF-A") recipients.

II. SUMMARY OF RECOMMENDATIONS

In general, ORA supports the PD and appreciates the efforts of Commissioner Sandoval, Administrative Law Judge Colbert, and the Communications Division to create an orderly, reasonable, and expeditious means to address the general rate cases of Small Local Exchange Carriers ("Small ILECs"). In keeping with the PD's goal of adopting a GRC Plan that considers the resources of both the Commission and parties, ORA recommends the following three modifications to the Proposed Decision: (1) Group the two affiliated Small ILECs (Kerman and Foresthill) in the same cycle; (2) Require any change in authorized rates of return to become effective for all small ILECs no later than 30 days following a decision in the cost of capital proceeding, and (3) Clarify that unless an exemption from the Commission's Executive Director is granted, a Small ILEC not

filing in the first possible year of their respective cycle must wait until the beginning of their next planned cycle to file a general rate case.

III. GROUP THE FILING OF THE TWO AFFILIATED SMALL ILEC'S GRCs IN THE SAME CYCLE

When reviewing a GRC of a Small ILEC in order to ensure safe and reliable service at reasonable rates, it is important for the Commission to receive the most comprehensive view of overall revenues and expenses. This is especially relevant for two of the Small ILECs that operate under a common corporate entity with revenues and expenses shared and allocated between them. The Kerman Telephone Company and Foresthill Telephone Company both operate under the common corporate name "Sebastian" with significant portions of revenue requirements emanating from affiliated transactions.¹ For the Commission to assess the reasonableness of one of the company's revenue requirements requires the allocation methods between the companies to be assessed which in turn may require components of the other company's revenue requirements to be assessed. This process can be achieved most efficiently when the Commission's review of each company's revenues requirements occurs simultaneously.

For this reason, ORA recommends that the GRCs for Kerman and Foresthill occur within the same filing cycle. Since the majority of work for Kerman's first GRC filing has already occurred, the second GRC cycle for Group A could replace Siskiyou with Foresthill so that the GRCs for these two affiliated Small ILECs could be reviewed at the same time. This would also result in Siskiyou's second GRC cycle being postponed by two years during which a freeze of the CHCF-A drawdown would be appropriate.

IV. RESULTS OF THE COST OF CAPITAL PROCEEDING SHOULD BE REFLECTED IN RATES AS SOON AS POSSIBLE

The PD indicates that the results of a cost of capital ("COC") proceeding "should be applied in the future GRC application cycles." However, to avoid Small ILECs rates

¹ Executive Summary of ORA's Report and Recommendations on the Application Kerman Telephone Company, A-11-12-011

and California High Cost Fund-A subsidies from continuing for up to three years to be based upon a rate of return that may have been found to be unreasonable, ORA recommends that newly authorized rates of return should be reflected in the Small ILEC's rates as soon as possible. Similar to the process accompanying both water and energy cost of capital proceedings, the Small ILECs should be required to file a Tier II Advice Letter implementing the effects of newly authorized rates of return within 30 days of a final decision in COC proceeding.

As currently scheduled in the PD's rate case plan, authorized rates of return for a Small ILEC may not be implemented for up to three years following a final decision in the COC proceeding. For example, the first COC proceeding would examine the issue for each of the ten Small ILECs starting in 2015 with a decision rendered in 2016. However, three of the Small ILECs (those in Group C) would not implement what the Commission had determined to be a reasonable rate of return until 2019. Assuming that a change in authorized rates of return occurs, it would be unreasonable to allow Small ILEC's rates or subsidies to continue either higher or lower than what the Commission had determined to be necessary for a given period of time. To avoid this untenable situation, the Commission should require all Small ILECs participating in the COC proceeding to implement new rates or CHCF-A subsidies based upon the most recently adopted rate of return via Tier II Advice Letter within 30 days of a decision in the COC proceeding.

V. A SMALL ILEC NOT FILING IN THE FIRST YEAR OF THEIR RESPECTIVE CYCLE SHOULD WAIT UNTIL THE BEGINNING OF THE NEXT CYCLE TO FILE

Although the gradual phase down in CHCF-A subsidies known as the "waterfall" should provide incentive for Small ILECs to file GRCs per the schedule outlined in Table 1 of the PD's rate case plan, an additional requirement should be placed upon those Small ILECs that do not. To avoid the same resource concerns that led to the creation of a rate case plan in the first place, a Small ILEC that does not file during the first year of their scheduled cycle should be required to either obtain an exemption from the Commission's

Executive Director for a delayed filing or wait until the first year of their next GRC cycle to file. As a result of this recommendation, a Small ILEC missing the first filing window (and not requesting a filing exemption) would experience a complete phase down of its CHCF-A subsidy prior to its next available filing window. Although this would undoubtedly elevate the incentive for a Small ILEC to file when expected, the primary benefit of this approach would be to guarantee the balance of workload and resources that is the very purpose of the rate case plan.

However, unlikely, the possibility exists that a series of staggered decisions by Small ILECs to delay filing a GRC by a year or two could lead to the Commission receiving all ten GRCs in the same year. This possibility defeats the purpose of the rate case plan and should be guarded against by more than just the partial phase down of CHCF-A subsidies. In rare and unavoidable circumstances where a delay in filing is necessary, a Small ILEC should be required to seek exemption from the Commission's Executive Director so that an opportunity for alternative resource planning can proceed.² Alternatively, the Small ILEC should be required to wait until the first year of its next cycle to file a GRC so that the original resource plans envisioned in the PD would be maintained.

VI. CONCLUSION

The rate case plan contained within the PD is an important step in developing a consistent, transparent and streamlined procedure to process the GRCs of the Small ILECs. The PD's reference to a Master Data Request correctly recognizes the specific and broad authority granted to ORA by the Public Utilities Code³ and wisely affords ORA the necessary flexibility to determine the information that it deems necessary to

² The Commission should require a Small ILECs request to the Executive Director to be provided concurrently to the Director of ORA and sent no later than 90 days prior to the scheduled filing date so that the rate case schedule can proceed uninterrupted in the event an exemption is not granted.

³ PUC§309.5(e) The office may compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission, provided that any objections to any request for information shall be decided in writing by the assigned commissioner or by the president of the commission, if there is no assigned commissioner.

ensure the provision of safe and reliable service at the lowest possible rates. The process for identifying deficiencies in the provision of such information prior to a GRC Application being filed creates a fair and reasonable means of protecting the public interest and the resources of both the Commission and parties.

To further ensure the efficiency and reasonableness of the process established by PD's rate case plan, ORA offers the following three recommendations for consideration: (1) In the second cycle of filing, replace Siskiyou with Foresthill so that the two affiliated Small ILECs (Kerman and Foresthill) have rate cases reviewed during the same period; (2) Require any change in authorized rates of return to become effective no later than 30 days following a decision in the cost of capital proceeding for all participating Small ILECs, and (3) Clarify that unless an exemption from the Commission's Executive Director is granted, a Small ILEC not filing in the first possible year of their respective cycle must wait until the beginning of their next planned cycle to file a general rate case.

Respectfully submitted,

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June 11, 2015