

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**  
6-22-15  
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)

**REPLY COMMENTS  
OF THE OFFICE OF RATEPAYER ADVOCATES**

**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 reply to the Opening Comments of the Small Independent Local Exchange Carriers ("Small ILECs") 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**

ORA reaffirms its support of the timelines established in both Tables 1 and 2 of the PD's proposed rate case plan and urges the Commission to not adopt a schedule that would further shorten the time available for review of Small ILEC GRC applications.

Moreover, since the GRC schedule proposed in the PD accelerates the timing of a final decision in a GRC proceeding by nearly four months from the time afforded by statute,<sup>1</sup> the Commission must ensure that a submitted GRC application contains adequate supporting information before the formal process begins. The PD's mechanism for identifying deficiencies in a proposed application is a reasonable means to ensure the

---

<sup>1</sup> Public Utilities Code § 1701.5: "...in a rate setting or quasi-legislative case, the commission shall resolve the issues raised in the scoping memo within 18 months of the date the scoping memo is issued..."

adequacy of a Small ILEC's submission. Despite the Small ILECs' comments to the contrary, the PD's proposed process for identifying deficiencies prior to an application being formally placed on the docket should not be changed.

### **III. TIMELINES SHOULD NOT BE SHORTENED**

The Small ILECs' Opening Comments portray the PD's schedule as an "overly aggressive timeline for submission of the next round of rate cases" that would have the first group of companies submitting a proposed application "just over a month from the date on which the PD will first be considered." Rather than the October 1, 2015 filing date envisioned by the PD, the Small ILECs now find it "sufficient to submit these rate cases by December 31, 2015." The Small ILECs' proposal to delay GRC filing dates by two months should be rejected.

The Small ILECs' criticism of the filing schedule contained within Table 1 of the PD as an "artificial time crunch" is without merit. The Commission should not be compelled to delay the filing schedule until December 2015 as the Small ILECs now propose when it was the Small ILECs themselves who complained six months ago that the Commission's initially proposed December 2015 filing date was too late:

Rather than providing for an expeditious consideration of rate cases, which have now been foreclosed for several years for most companies, the Communications Division plan would not even begin the next "cycle" until December 2015.<sup>2</sup>

The Small ILECs' reversal on what constitutes an expeditious consideration of rate cases is more troubling given that, in order to meet the PD's target date for new rates, the Small ILECs propose to remove time from both the Commission's and ORA's internal timelines. The proposal contained in the Small ILECs' Opening Comments would remove one month from the time available for ORA and other parties to perform discovery, complete site visits, attend public participation hearings, and conduct analyses

---

<sup>2</sup> Lines 8-10, page 3, *Opening Comments of Independent Small LECs on Second Amended Scoping Memo and Ruling of Assigned Commissioner*, January 9, 2015.

on data relevant to the application.<sup>3</sup> Additionally, the Small ILECs would shorten the time between their service of Rebuttal Testimony and the start of evidentiary hearings by another five days. And finally, the time available for delivery of a proposed decision after submission of the evidentiary record would be four days less than that specified in the PD's schedule or thirty-four days less than the time afforded by the Commission's Rules of Practice and Procedure.<sup>4</sup>

Since at least December 2014, the Small ILECs have been aware that the Commission was developing a framework for processing GRC applications.<sup>5</sup> To shorten the time available for ORA and the Commission to complete internal timelines because the Small ILECs now claim that additional time is needed for "a thoughtful development of revenue requirement and rate design proposals" is suspect. For the Small ILECs to assert that the first group of filing companies would be "disadvantaged and put under an artificial time crunch" unless filing dates are delayed until December 2015 is doubly suspect since the PD's first filing group contains only those companies that the Small ILECs had proposed initially to file as early as May 2015.<sup>6</sup>

Although ORA does not oppose the Small ILECs' request to move Sierra Telephone Company into the second group of filers, the other timelines established in Tables 1 and 2 of the PD should not be changed.<sup>7</sup> However, if the Commission ultimately determines that a later filing date in Table 1 is warranted, under no circumstances should the Commission condense the internal schedules found in Table 2 of the PD to shorten the time available for ORA to perform its analyses and for the

---

<sup>3</sup> Table 2 in Attachment A proposes 0-120 days compared to the 0-150 days contained in the PD.

<sup>4</sup> Rule 14.2(a): A proposed decision shall be filed no later than 90 days after submission.

<sup>5</sup> See *Opening Comments of The Office Of Ratepayer Advocates On The Proposed Decision of Commissioner Sandoval*, December 8, 2014.

<sup>6</sup> Page 7 of Attachment A of the *Opening Comments of Independent Small LECs on Second Amended Scoping Memo and Ruling of Assigned Commissioner* suggested "The following companies will submit rate cases on May 1, 2015, with a test year of 2016: Calaveras, Sierra, Siskiyou, and Volcano."

<sup>7</sup> For improved efficiency, The Commission should combine Kerman and Foresthill's second cycle of GRC applications into the same filing group as addressed in ORA's Opening Comments.

Commission to develop a robust record on which to base its decision in a GRC proceeding.

#### **IV. DEFICIENCIES IN A GRC APPLICATION MUST BE RESOLVED PRIOR TO THE APPLICATION BEING DOCKETED**

The Opening Comments of the Small ILECs present a reasonable request that the substance of minimum data requirements be established “at least 30 days in advance” of the deadline for the Notice of Intent (“NOI”). However, any attempt to limit the actual substance of data requests would impinge upon both the Commission’s ability to modify, as circumstances warrant, the basic information considered necessary to review in a GRC and ORA’s statutory authority “to compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission.”<sup>8</sup>

Since provision of minimum data requirements 30 days prior to an NOI can be accommodated within the PD’s existing proposed schedule, ORA does not oppose this request of the Small ILECs. However, in order for minimum data requirements to achieve their originally intended purpose, a deficiency review process must be conducted before a GRC application is placed on the Commission’s docket. The ability of the deficiency review process to ensure a complete and adequate GRC application is especially important given the PD’s proposed schedule where an entire GRC proceeding (including NOI submission) might be concluded nearly four months sooner than the time afforded in statute.<sup>2</sup>

ORA agrees with the Small ILECs’ determination that a deficiency review process used “to identify procedural or informational omissions in an initial proposal that can be remedied in advance of a filing” is helpful. Furthermore, since such a review process would be an objective exercise, the author of any deficiency or compliance letter would be largely immaterial. Nevertheless, whether it is the Communications Division or ORA

---

<sup>8</sup> Public Utilities Code § 309.5(e).

<sup>2</sup> The PD’s scheduled NOI process (60 days) added to the time for when a final GRC decision might be first adopted (361 days) is 119 days less than 540 days afforded in PUC § 1701.5 where issues raised in a rate setting proceeding’s scoping memo are to be resolved within 18 months.

as author, any deficiency letter must be more than just an “informal” or “advisory” vehicle to have relevance and purpose. While the Small ILECs caution against a deficiency letter being a “formal obstacle to a rate case filing,” the required remedying of deficiencies prior to an application being placed on the Commission’s docket would actually remove the obstacle to a thorough, thoughtful, and timely resolution of an otherwise deficient GRC application.

## V. CONCLUSION

For all of the reasons stated above, the Commission should maintain the timelines established within Tables 1 and 2 of the PD and require a robust deficiency review of a proposed application to ensure that such timelines are adequate for producing a reasonable resolution of a Small ILEC’s GRC proceeding.

Respectfully submitted,

/s/ TRAVIS T. FOSS

---

Travis T. Foss  
Attorney

Office of Ratepayer Advocates

California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 355-5570  
Fax: (415) 703-4592  
Email: [travis.foss@cpuc.ca.gov](mailto:travis.foss@cpuc.ca.gov)

June 22, 2015