

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

6-03-16
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)

**MOTION OF THE CALIFORNIA ASSOCIATION OF
COMPETITIVE TELECOMMUNICATIONS COMPANIES
(CALTEL) TO CONFIRM THAT ALL PHASE II ISSUES WILL BE
INCLUDED IN THE THIRD REVISED SCOPING RULING IN THIS
PROCEEDING**

June 3, 2016

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Pursuant to Commission Rules of Practice and Procedure Rule 11.1 of the Commission's Rules of Practice and Procedure, the California Association of Competitive Telecommunications Companies (CALTEL) hereby respectfully requests that all of the Phase II issues identified in D.14-12-084 will be included in the third revised scoping ruling that is anticipated to be issued in this proceeding.

CALTEL raises this concern because the Proposed Decision (PD) for an Order Extending the Statutory Deadline issued on May 27, 2016 only included five of the seven Phase II issues identified in D.14-12-084. Issues 6 and 7, which deal with reviewing the "preliminary conclusion not to open the areas the Small ILECs serve to competition" as well as with preliminary conclusions regarding "imputation of broadband revenues,"¹ were omitted from the list of Phase II issues to be included in a "third revised scoping ruling"² to be issued in the proceeding. CALTEL therefore seeks to confirm that these issues were inadvertently omitted from the PD and will be addressed as contemplated in Ordering Paragraphs 5-7 of D.14-12-084 before the proceeding is closed.

I. Background

CALTEL is a non-profit trade association working to advance the interests of fair and open competition and customer-focused service in California telecommunications. CALTEL members are competitive local exchange carriers (CLECs) that provide resale and facilities-based services to residential and business customers in California. A list of all members of CALTEL can be found at <http://www.caltel.org/members2.html>.

CALTEL participated in Phase I of this proceeding, and advocated that the Small ILECs' territories should be opened to wireline competition, at least to the extent of

¹ D.14-12-084 at p. 12.

² PD at p. 3.

providing the service elements implicated in Sections 251(a) and 251(b) of the Federal Telecommunications Act of 1996 ('96 Act).³ The Phase I decision, D.14-12-084, however, preliminarily concluded that those territories should not be open to competition pending completion of studies to be conducted within 18 months of the decision.

Ordering Paragraphs 5-7 laid out the details for this determination:

5. We make a preliminary determination that Small Incumbent Local Exchange Carrier's territories will not be opened to wireline competition at this time, and whether wireline competition should be permitted in some or all of those areas will be determined in Phase 2 of this proceeding, after evaluating the Broadband Networks and Universal Service studies for each of the Small Incumbent Local Exchange Carrier's service area.

6. The Commission's Communications Division will initiate the California state contracting process in order to commence the Broadband Network and Competition studies in the first quarter of 2015, with the studies to be conducted within 18 months of commencement.

7. Any request filed and received subsequent to this Phase 1 decision to amend certificates of public convenience and necessity to include Small Incumbent Local Exchange Carrier areas or for access to Section 251(b) elements or interconnection under Section 251 (c), or for a petition under Section 251(f)(2) to suspend or modify the application of the requirements of Section 251(b) or (c), or a petition under Section 253 (f) will be deferred until the Broadband Networks and Universal Service studies are completed in Phase 2 of this proceeding and the Commission has evaluated the study to determine in Phase 2 whether or not some or all of the Small ILEC areas should be opened to CLEC competition.

II. Discrepancies Between PD and D.14-12-084 Lists of Phase II Issues

Accordingly, this issue was included in a summary of Phase II issues in the decision as follows:

Due to the complexity of this proceeding, a second phase will be required. In Phase 2, the following issues will be addressed: (1) the applicability of rate of return as a regulatory framework for California's rural ILECs and the operation of the A-Fund; (2) alternative forms of regulation, including whether to introduce incentive based regulation; (3) whether or not to continue the GRC process for the

³ CALTEL also timely filed an Application for Rehearing on January 20, 2015. CALTEL's rehearing application is still pending.

Small ILECs; (4) whether an evaluation of the presence of competition should include all technologies; and (5) proposals to disqualify non-CHCF-A recipients from CHCF-A eligibility; **6) a review of our preliminary conclusion not to open the areas the Small ILECs serve to competition, informed by studies the CPUC will conduct in Phase II on deployment of Broadband Networks and Universal Service, as described in more detail herein;** 7) a review of whether imputation of broadband revenues is appropriate for GRC cycles following the first cycle approved after this Decision.⁴

However, a nearly verbatim summarized list in the May 27th PD includes only the first five of these seven issues:

Due to the complexity of the proceeding, a second phase will be required. In Phase II, the following issues will be addressed: (1) the applicability of rate of return as a regulatory framework for California's rural Local Exchange Carriers (LECs) and the operation of the A-Fund; (2) alternative forms of regulation, including whether to introduce incentive based regulation; (3) whether or not to continue the GRC process for the small LECs; (4) whether an evaluation of the presence of competition should include all technologies; and (5) proposals to disqualify non-CHCF-A recipients from CHCF-A eligibility.⁵

III. Relief Requested

CALTEL hopes that the discrepancy between these Phase II issue lists was inadvertent and does not reflect a substantive change to when and how the competition issue will be addressed in this proceeding. CALTEL therefore respectfully requests that the PD be revised to correct the discrepancy, or that the Administrative Law Judge or Assigned Commissioner otherwise confirm that the omitted issues will be included in the anticipated scoping ruling and addressed in Phase II as previously contemplated in the adopted Phase I decision.

⁴ D.14-12-084 at p. 12 (emphasis added).

⁵ PD at p. 3.

Dated: June 3, 2016

Respectfully submitted,

/s/

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