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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of Ducor Telephone Company (U1007C) to Review Intrastate Rates and Charges, Establish a New Intrastate Revenue Requirement and Rate Design, and Modify Selected Rates.

Application 17-10-003

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

Summary

This Scoping Memo and Ruling sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding pursuant to Public Utilities Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure¹.

1. Background

Ducor Telephone Company (Ducor) is a small incumbent local exchange carrier which serves approximately 1,000 telephone lines in three communities of Ducor, Rancho Tehama and Kennedy Meadows within portions of Tehama, and Tulare counties.² Ducor filed Application (A.) 17-10-003 with the Commission on October 2, 2017 for review of its intrastate rates and charges for regulated intrastate telecommunications services, and seeks to modify its revenue requirement and rates

¹ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

² See Application at page 9. Ducor's telephone system principally consists of a local exchange network and facilities for interconnection to the public switched telephone network, including underground and aerial cable and lines, radio equipment, central office equipment, land, buildings and miscellaneous other equipment. Ducor provides voice service over a broadband capable platform.

based on a test year of 2019.³ Since then, Ducor represents that it has cut its annual expenses by approximately \$700,000. In this application, based on costs that Ducor expects to incur in its 2019 test year, Ducor seeks approval of a proposed revenue requirement of \$2,659,806.⁴ Ducor seeks \$1,905,369 in California High Cost Fund-A (CHCF-A) support. Ducor's application includes opening direct testimony of five witnesses.⁵

On November 1, 2017, the Office of Ratepayer Advocates (ORA) filed a protest to Ducor's application indicating that it would examine Ducor's testimony and workpapers in support of its application, perform discovery and seek documentation necessary to ensure that Ducor's requests are in the public interest and best meet the interests of ratepayers. On November 13, 2017, Ducor filed its response to ORA's protest.

1.1. Prehearing Conference

In a November 20, 2017 ruling, the Administrative Law Judge (ALJ) set a Prehearing Conference (PHC) on December 14, 2017 and ordered the parties to meet, confer and file joint or individual PHC statements. On December 14, 2017, the PHC was adjourned due to unanticipated building shutdown and continued to January 18, 2018. The parties filed separate PHC statements offering proposed procedural schedules. During the PHC, the parties and the ALJ discussed matters relating to the proceeding, including: (1) the permanent service list for this proceeding; (2) the scope of the proceeding and issues to be considered; (3) the categorization of the proceeding and need for hearing; (4) the schedule for the proceeding; and (5) other procedural matters.

³ The Commission approved Ducor's last rate case for test year of 2009, by Resolution T-17312, modified by Resolution T-17157 in D.10-05-022.

⁴ See Application at 3. Ducor's revenue requirement reflects its forecast of \$2,329,899 in regulated expenses and property taxes, return on rate base of \$221,032, rate base of \$2,431,593, rate of return of 9.09% and forecasted tax liabilities of \$108,875.

Discussion ensued at the PHC about the extent to which the Commission may evaluate the quality of broadband service that Ducor provides to its customers. Ducor contended that it was not required to comply with a discovery request from ORA concerning quality of services that Ducor provided to customers via an affiliate because such services are deemed information services under the 2017 Federal Communications Commission's (FCC) Restoring Internet Freedom Order.⁶ Previous telephone general rate cases before this Commission have addressed whether the quality of voice communication services provided over broadband enabled networks were of sufficient quality to comply with General Order (GO) 133-D. However, Ducor contends that the recent 2017 FCC Order reclassified broadband services as information services, which are not within the scope of the Commission's regulatory authority. The parties were ordered to brief this issue.⁷ The parties filed briefs on this issue on February 5, 2018. On March 2, 2018, the ALJ issued an e-mail ruling ordering Ducor to provide response to ORA's discovery request for broadband data.

This Scoping Memo and Ruling (Scoping Memo) is issued to set forth the issues which shall be examined within the scope of this proceeding.

2. Scope

Based on the application, ORA's protest, Ducor's response to the protest, the parties' PHC statements, discussion at the PHC, and briefing served by the parties on February 5, the issues in this proceeding shall be as follows:

- a. What level of revenue requirement is necessary to provide Ducor with revenues and earnings sufficient to allow it to operate in a

⁵ Concurrent with the filing of its application, Ducor served prepared direct testimony of Eric Votaw, Kevin Conklin, Chad Duval, Dr. Dale Lehman and Joanne Reuter.

⁶ See *In the Matter of Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order, FCC 17-166 (rel. Jan. 4, 2018).

⁷ See PHC Transcript at 8, line 11 to 9, line 18.

- manner that allows it to deliver safe, reliable, high-quality voice communication services, which comply with GO 133-D?
- b. Are Ducor's proposed expenses within the FCC corporate expense cap adopted by the Commission in D.14-12-084?
 - c. Has Ducor disclosed the amount of any miscellaneous revenues that it claims is nonregulated and not subject to Ducor's intrastate revenue requirement?
 - d. Is Ducor's proposed CHCF-A draw/subsidy for test year 2019 sufficient to permit Ducor to deploy broadband capable facilities which are reasonably comparable to such facilities in urban areas?
 - e. Does Ducor's Results of Operations for test year 2019 reflect reduction of federal taxes, and a corresponding reduction in revenue requirement and CHCF-A support, as a result of the Tax Cuts and Jobs Act of 2017, which became effective 1/1/2018?
 - f. What end user rates are just and reasonable for Ducor's customers?
 - g. Is Ducor complying with the Commission's affiliate transaction rules as set forth in D.93-02-019 and GO 104-A, or are more specific affiliate transaction rules required to protect ratepayers?
 - h. Are there any safety considerations implicated by this proceeding?

3. Categorization

The Commission in Resolution ALJ 176-3406 issued on October 12, 2017, preliminarily categorized this proceeding as ratesetting, and no party has objected to the categorization. The Commission also determined that hearings are necessary in this proceeding. This ruling confirms the categorization, as well as the determination that this proceeding requires evidentiary hearings. This ruling may be appealed as to category, and all appeals must be filed and served within 10 days of this ruling. (Rule 7.6.)

This Scoping Memo confirms the categorization. Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this scoping ruling. (*See* Rule 7.6.)

4. Need for Hearing

The Commission in Resolution ALJ 176-3406 also preliminarily determined that hearings are required. This Scoping Memo finds hearings necessary.

5. Ex Parte Communications

In a ratesetting proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the ALJ are only permitted as described at Public Utilities Code Section 1701.3(h) and Article 8 of the Rules.⁸

6. Intervenor Compensation

Pursuant to Public Utilities Code Section 1804(a)(1), a customer who intends to seek an award of compensation was required to file and serve a notice of intent to claim compensation by February 19, 2018, 30 days after the PHC.

7. Assigned Commissioner and Presiding Officer

Liane M. Randolph is the assigned Commissioner. Pursuant to Public Utilities Code Section 1701.3(b) and Rule 13.2(b), ALJ Patricia B. Miles is designated as the Presiding Officer.

8. Filing, Service and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

⁸ Interested persons are advised that, to the extent that the requirements of Rule 8.1 et seq. deviate from Public Utilities Code Sections 1701.1 and 1701.3 as amended by Senate Bill 215, effective January 1, 2017, the statutory provisions govern.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

Parties can find information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

9. Electronic Submittal and Format of Supporting Documents

The Commission's web site now allows electronic submittal of supporting documents (such as testimony and work papers). In addition to serving testimony on all parties as required by the rules, parties shall submit their testimony or workpapers in this proceeding through the Commission's electronic filing system.⁹ Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>) and

⁹ These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony. Any document that needs to be formally filed such as motions, briefs, comments, etc., shall be submitted using Tabs 1 through 4 in the electronic filing screen.

- The Naming Convention for Electronic Submission of Supporting Documents (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission’s Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission’s Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors (i.e. “*ex parte* communications”) or other matters related to a proceeding.
- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the ALJ), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the Commission.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e. “record”) unless accepted into the record by the ALJ.

All documents submitted through the “Supporting Documents” Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security – PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.
- Retention – The Commission is required by [Resolution L-204](#), dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.
- Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the “Docket Card”. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “[E-filed Documents](#)”;
- Select “Supporting Document” as the document type, (do not choose testimony); and
- Type in the proceeding number and hit search.

Technical questions regarding submission of supporting documents shall be directed to (1) Kale Williams (kale.williams@cpuc.ca.gov) 415 703- 3251; and/or (2) Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov) 415 703-5999.

10. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Commission’s Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery and discovery shall not be served on the ALJ. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

11. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao> or contact the Commission’s Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

12. Schedule

It is the Commission’s intent to complete this proceeding within 18 months of the date this proceeding was initiated. This deadline may be extended by order of the Commission. (Public Utilities Code Section 1701.5(a).) The parties agree that a Public Participation Hearing should be held. The schedule is:

EVENT	DATE
Public Participation Hearings	Monday, March 26, 2018 Ducor Union Elementary School Monday April 2, 2018 Rancho Tehama Community Ctr
Ducor Supplemental Testimony	April 16, 2018 ¹⁰
ORA Testimony served	May 14, 2018 ¹¹
Rebuttal Testimony served	June 8, 2018
Evidentiary Hearings (if required)	June 19-21, 2018 at 10:00 a.m. Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
Opening Briefs	July 20, 2018
Reply Briefs	August 6, 2018
Proposed Decision	4th Quarter 2018
Commission Meeting/Decision	4th Quarter 2018

The case will be submitted upon the filing of reply briefs, unless the assigned Commissioner or the ALJ directs further evidence or argument. It is the Commission's intent to complete this proceeding within the timeframe set forth in the rate case plan for small telecommunications carriers, Decision 15-06-048.

The assigned Commissioner or assigned ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding.

¹⁰ Ducor shall have an opportunity to file supplemental testimony, which shall be limited to ten pages, the scope of which shall be limited only to those new matters, within the scope of this proceeding, that are first raised at the PPH and that Ducor did not address in its previous testimony.

¹¹ ORA's opening testimony should include its responses to Ducor's opening and supplemental testimony, as well as any comments about the PPH.

13. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr>, for more information.

If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

14. Final Oral Argument

A party in a ratesetting proceeding in which a hearing is held has the right to make a Final Oral Argument before the Commission, if the argument is requested within the Closing Brief. (Rule 13.13.)

15. Outreach Pursuant to Public Utilities Code Section 1711(a)

Public Utilities Code Section 1711(a) states:

Where feasible and appropriate, except for adjudication cases, before determining the scope of the proceeding, the commission shall seek the participation of those who are likely to be affected, including those who are likely to benefit from, and those who are potentially subject to, a decision in that proceeding. The commission shall demonstrate its efforts to comply with this section in the text of the initial scoping memo of the proceeding.

The parties will hold PPHs, which comply with this provision.

IT IS RULED that:

1. The Commission's preliminary determination categorizing this proceeding as ratesetting and finding that hearings are needed is affirmed. Appeals as to category, if any, must be filed and served within ten days from the date of this scoping memo.
2. The issues in this proceeding as set forth in Section 2 of this Scoping Memo and Ruling are confirmed and shall remain the only issues to be addressed in this proceeding unless subsequently modified by the assigned Commissioner.
3. The schedule for this proceeding as set forth in this Scoping Memo and Ruling shall remain in effect unless subsequently modified by the assigned Commissioner or the Administrative Law Judge.
4. The parties shall file and serve all pleadings, and serve their respective testimony pursuant to Article 1 of the Commission's Rules of Practice and procedure.
5. The parties shall comply with *ex parte* communications rules as provided in Public Utilities Code Section 1701.3(c), Rules 8.1 through 8.6, and as directed in this ruling.
6. Parties shall follow the procedures stated in this ruling to request Final Oral Argument.

Dated March 13, 2018, at San Francisco, California.

/s/ LIANE M. RANDOLPH

Liane M. Randolph
Assigned Commissioner