

Decision 17-11-013 November 30, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of The Ponderosa Telephone Co. (U 1014 C) to Review Intrastate Rates and Charges, Establish a New Intrastate Revenue Requirement and Rate Design, and Modify Selected Rates.

Application 16-10-001

(See Appendix 5 for Appearances)

**DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT;
APPROVING INTRASTATE RATES AND CHARGES; ESTABLISHING NEW
INTRASTATE REVENUE REQUIREMENT AND RATE DESIGN; AND
MODIFYING SELECTED RATES FOR THE PONDEROSA TELEPHONE CO.
FOR TEST YEAR 2018**

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**DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT;
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MODIFYING SELECTED RATES FOR THE PONDEROSA TELEPHONE CO.
FOR TEST YEAR 2018**

Summary

This decision adopts and approves the All-Party Settlement Agreement between the California Public Utilities Commission's (Commission) Office of Ratepayer Advocates (ORA); The Ponderosa Telephone Co. (Ponderosa); and Ponderosa Cablevision, as modified by the parties on November 13, 2017,¹ and closes Application (A.) 16-10-001.

This decision finds that the Settlement Agreement between the parties accepted several proposals made by ORA to benefit California ratepayers, and that said proposals are supported by thorough analysis, good arguments, as well as factual and legal foundations. This decision finds that the settlement between the parties, as modified on November 13, 2017, is reasonable in light of the whole record in this proceeding, consistent with the law and in the public interest.

This decision adopts an overall intrastate revenue requirement of \$10,936,966 for Test Year 2018 (TY 2018) including a subsidy draw of \$3,616,969 from the California High Cost Fund-A (CHCF-A).² Further, this decision:

¹ ORA, Ponderosa, and Ponderosa Cablevision are the only parties in this proceeding, and all are hereinafter referred to as "the parties."

² The intrastate revenue requirement agreed to by the parties is based on the 8.44 percent rate of return that the Commission adopted in Decision (D.) 16-12-035, and reflects several adjustments/deductions to Ponderosa's requested intrastate revenue requirement. Accordingly, if D.16-12-035 is later revised by the Commission or a court of law, or the Commission adopts a new cost of capital for Ponderosa in a subsequent cost of capital

Footnote continued on next page

(1) adopts new rates for Ponderosa's residential and business customers that are reasonably comparable to the rates urban customers pay, pursuant to Public Utilities (Pub. Util.) Code § 275.6(c)(3); (2) authorizes a revenue requirement for Ponderosa based on sound analysis of Ponderosa's infrastructures and operational needs, revenue sources and income, costs and expenses, depreciation and deductions; (3) adopts new rules regarding Ponderosa's interactions with its affiliates as discussed in Section 7 below; and (4) adopts requirements relating to service quality, safety and project reporting for Ponderosa, among others.

Effective January 1, 2018, this decision sets Ponderosa's tariffed basic residential rates at \$25.00 (exclusive of surcharges, fees or taxes), business rates at \$37.10 (exclusive of surcharges, fees or taxes), and adopts new rates for other Ponderosa's services identified in Attachment 1 to the Settlement Agreement.

Based on the forecasted revenues, this decision accepts and sets Ponderosa's rate design as follows:³

proceeding, any resulting adjustments/revision to cost of capital shall be applied to Ponderosa based on the instructions from the Commission or the reviewing court.

³ This information is based on the "Joint Agreement" filed by the parties on May 10, 2017 (**Appendix 1**), as clarified and further explained in "Ponderosa Telephone Company Test Year 2018 Results of Operations" (RO) filed by the parties on June 12, 2017 as Exhibit A to parties' June 12, 2017 Joint Response to the Administrative Law Judge's May 22, 2017 ruling requiring additional information from the parties in support of proposed settlement. Exhibit A to the June 12, 2017 Response has been renumbered, and is included herein as **Appendix 2** to this decision. **Appendix 2** shows the specific figures that the parties agreed upon as "the Ponderosa Telephone Company Test Year 2018 Results of Operations." The parties agree that Exhibit B to the parties' June 12, 2017 response, as updated on November 13, 2017, (**Appendix 4** herein) should only be adopted for the limited purpose of determining and/or performing the "means test" component of Ponderosa's future Annual California High Cost Fund-A filings. The Commission disagrees, as the Commission finds it appropriate and reasonable based on the record in this case to adopt the RO submitted by the parties in **Appendix 4 for all purposes** and consistent with established and historical General Rate Case processes practiced by all Commission Industry Divisions, including the Communications Division.

Source	Amount
Local Network Services Revenues	\$2,939,720
Interstate USF Support for Intrastate Revenue Requirement	\$3,501,082 ⁴
Intrastate Access Revenues.	\$445,929
Miscellaneous and Uncollectible Revenues	\$433,266 ⁵
CA High Cost Fund-A	\$3,616,969 ⁶
Total Revenue Requirement for 2018 Test Year	\$10,936,966

1. Background and Procedural History

In response to the General Rate Case (GRC) Application cycle for the Small Local Exchange Carriers listed in Group B in the California Public Utilities Commission (Commission) Decision (D.) 15-06-048 (*Rate Case Plan for General Rate Case Applications filed by California High Cost Fund-A recipients, hereinafter "Rate Case Plan"*), The Ponderosa Telephone Co. (Ponderosa) submitted this GRC Application (A.) 16-10-001 to the Commission on October 3, 2016: (1) for the approval of its intrastate rates and charges for regulated intrastate telecommunications services; (2) to update its intrastate revenue requirement;

⁴ Pursuant to the joint response filed by the parties on November 13, 2017, after the filing of the Settlement Agreement with the Commission, Ponderosa's 2018 HCLS/ Interstate Universal Service Fund (USF) funding decreased by \$1,433,017, resulting in an equal amount of increase in Ponderosa's CHCF-A draw. Accordingly, contrary to the figures contained in the Settlement Agreement between the parties, Ponderosa's CHCF-A figure is updated to \$3,616,969 from the original settlement amount of \$2,183,952, and Ponderosa's 2018 HCLS/ USF funding is updated to \$3,501,082 the original settlement amount of \$4,934,099.

⁵ This amount excludes about \$3,380 in reasonable estimated "uncollectible" revenue per parties' July 11, 2017 Joint Response to the ALJ's June 26, 2017 ruling requesting additional information regarding the proposed settlement.

⁶ This amount is based on the 8.44 percent rate of return that the Commission adopted in A.15-09-005 (D.16-12-035) for small local exchange carriers, and is subject to change if the rate of return is revised pursuant to the pending Application for Rehearing in A.15-09-005.

and (3) to establish a rate design “that will give Ponderosa a reasonable opportunity to meet its revenue requirement.”⁷

In its Application, Ponderosa requested that the Commission review and approve its estimated intrastate revenue requirement of \$13,993,453 for TY 2018, including a subsidy draw of \$5,491,829 from the California High Cost Fund-A (CHCF-A).⁸ Ponderosa’s TY 2018 estimated intrastate revenue requirement represents a decrease of \$1,415,217 from its current Commission approved intrastate revenue requirement of \$15,408,670, but an increase in its current CHCF-A subsidy draw of \$3,792,252 based on its last rate case for TY 2009.⁹ Finally, Ponderosa requested an increase in its basic residential local exchange rate from the current \$20.25 to \$23.00 per month (exclusive of the Subscriber Line Charge and the other surcharges and fees), bring its basic business rate in all its exchanges to \$34.15, and make adjustments to its other business and foreign exchange rates by the same percentage of increase as its residential rate increase as provided in the Application. Concurrently with the Application, Ponderosa served prepared direct testimony of Kristann Silkwood Mattes, Matthew J. Boos, Daniel K. Douglas, Fred Lofy, Eric Vargas, Dr. Dale Lehman and Joanne Reuter in support of its Application and requests.

⁷ Revenue requirement is defined as “the amount that is necessary for a telephone corporation to recover its reasonable expenses and tax liabilities and earn a reasonable rate of return on its rate base.” (See Pub. Util. Code § 275.6(b)(5).)

⁸ In 1987, the CHCF-A was established for the purpose of minimizing basic telephone service rates’ disparity between rural and metropolitan areas. <http://www.ora.ca.gov/chcfa.aspx>.

⁹ See Res. T-17297 (2009), which modifies Res. T-17132 following rehearing.

¹⁰ Of note, the requested intrastate revenue requirement of \$13,993,453, and CHCF-A draw of \$5,491,829 are based on 13.85 percent cost of capital that Ponderosa requested in its Application. The cost of capital adopted in the Settlement Agreement is 8.44 percent per D.16-12-035.

1.1 Customer Notice - Rule 3.2

As required by Rule 3.2, Ponderosa complied with the Commission's Customer Notice requirements by timely notifying its customers on October 25, 2016 by bill inserts of the proposed rate increases to its services effective January 1, 2018, and published Notice of its Application approved by the Commission's Public Advisor's Office in newspapers of general circulations in San Bernardino, Fresno, and Madera counties on several dates between October 18 through October 20, 2016. Ponderosa filed its Notice of compliance with Rule 3.2 with the Commission on November 8, 2016.

1.2 Protests

On November 2, 2016, the Office of Ratepayer Advocates (ORA) protested Ponderosa's Application, and identified the following substantive issues/areas that it argued should be evaluated and addressed within the scope of this proceeding: (1) Ponderosa's proposed level of revenue requirement, revenue projections and rate design; (2) Ponderosa's proposed end-user rates; (3) Ponderosa's proposed CHCF-A subsidy/draw for TY 2018; (4) Ponderosa's overall service quality pertaining to safety and reliability; (5) Ponderosa's corporate expense; and (6) Ponderosa's proposed new depreciation study. Ponderosa filed its reply to ORA's protest on November 14, 2016.

1.3 Prehearing Conference, Motion for Party Status, Scope and Issues

On December 12, 2016, Administrative Law Judge (ALJ) Adeniyi A. Ayoade held a prehearing conference in this proceeding, and on December 20, 2016, the assigned Commissioner issued her Scoping Memo and Ruling, which, among others, confirmed the scope and schedule for the proceeding, and identified issues to be briefed and decided in this proceeding.

The issues identified in the Scoping Memo and Ruling were: (1) what level of revenue requirement is necessary for Ponderosa to operate in a manner that allows it to deliver safe, reliable, high-quality service, fulfill its “carrier of Last Resort” obligations; (2) what end-user rates are just and reasonable for Ponderosa’s customers; (3) how should Ponderosa’s rate design be structured so as to afford Ponderosa a fair opportunity to earn a reasonable rate of return utilizing a 2018 test year; and (4) should the Commission adopt new affiliates transaction rules (similar to those adopted in A.15-12-002) for Ponderosa? The parties agreed that the issues identified in ORA’s November 2, 2016 protest, listed above, should also be considered and addressed.

On February 24, 2017, ORA served its responsive testimony of five witnesses to Ponderosa’s Application,¹¹ and on April 3, 2017, Ponderosa served ORA with rebuttal testimony of six witnesses.

On April 10, 2017, the ALJ granted Ponderosa Cablevision, an affiliate of Ponderosa, party status in this proceeding pursuant to its motion to intervene in this proceeding filed on March 22, 2017. Accordingly, Ponderosa Cablevision became a party in this proceeding.

1.4 Settlement Efforts and Agreement

On May 5, 2017, the parties held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b), which resulted in the execution of an All-Party Settlement Agreement (Settlement Agreement or Joint Settlement Agreement)¹² that resolved all issues in this proceeding. On May 10, 2017, the

¹¹ These witnesses include: (1) Enrique Gallardo; (2) Quang Pham; (3) James Ahlsted; (4) Patrick Hoglund; and (5) Laura Roman.

¹² The “All-Party Settlement Agreement,” “Joint Settlement Agreement,” and “Settlement Agreement” are used interchangeably in this decision, and all mean one and the same.

parties filed a Joint Motion and the associated Settlement Agreement to the Commission seeking the adoption of the All-Party Settlement Agreement as a final resolution of this matter.

On June 12, July 11, and August 15, 2017, the parties filed additional information with the Commission in support of the Settlement Agreement as directed by the ALJ in rulings issued on May 22, 2017, June 26, 2017 August 4, 2017, respectively. These responses are accepted and admitted into the record of this proceeding.

On November 7, 2017, Ponderosa filed a motion for leave to submit an updated RO. On November 8, 2017, the ALJ granted Ponderosa's motion for leave and on November 13, 2017, Ponderosa and ORA jointly filed an updated RO table for TY 2018. The updated RO is adopted in this decision as Ponderosa Telephone Company Test Year 2018 Results of Operations (Appendix 4).

2. The Ponderosa Telephone Co. and Organizational Structure

Ponderosa is a telephone company that owns and operates a telephone system providing local exchange telephone service in Fresno, Madera, and San Bernardino counties. Ponderosa's telephone system consists of a local exchange telephone network and facilities for its interconnection to the public switched telephone network, including underground and aerial cable and lines, circuit equipment, radio equipment, central office equipment, land, buildings, and miscellaneous other equipment. Ponderosa's telephone network was described in the testimony of its Director of Operations, Eric Vargas, which was served concurrently with this Application.

Ponderosa's offices (including operations, engineering, construction, warehouse and purchasing departments) are located at 47671 Road 200, O'Neals, California, and its accounting, regulatory, information services, human resources

and safety personnel, administrative and executive offices are located at 47034 Road 201, O'Neals, California. Ponderosa had about 79 employees at the time of the filing. Ponderosa shares some of its facilities and infrastructures with some of its affiliates, particularly Ponderosa Cablevision.

Ponderosa serves customers in the Cima, Friant, O'Neals, North Fork, Auberry, Shaver, Big Creek, and Wishon exchanges, and at the time of this application, Ponderosa serves approximately 7,800 access lines in its eight telephone exchanges. Its service territory encompasses approximately 4,000 square miles in a wide geographical area spanning the foothills of the Sierra Nevada, high mountain landscapes and some remote areas of the Mojave Desert.¹³

Based on the submitted testimony, Ponderosa's territory is characterized by rugged terrain, highly-variable temperatures, harsh winters, granite and difficult to trench surfaces, high elevations and thick forests, and fires, mudslides, storms and rockslides can threaten facilities, and necessitate needs for replacement facilities in short timeframes, and thus adding to costs in labor and materials. The mountainous and rural nature of Ponderosa's service territories means that Ponderosa's construction crews must drive long distances to reach construction sites, and sometimes dealing with various homeowners associations which add new challenges, delay and costs to construction projects and activities. Ponderosa's facilities are in national forest, and thus, dealing with National Parks Service land can also increase costs.

Other than the above-stated, Ponderosa believes that the main driver of its

¹³ See the Opening Testimony of Kristann Silkwood Mattes, Ponderosa President and part owner.

operational costs is the long distances between its customers location, due to population sparsity, and thus Ponderosa “must design a network that relies on more cable and wire facilities per customer” than providers serving suburban and urban communities and populations.

Ponderosa is a wholly-owned subsidiary of Ponderosa Communications Inc., a holding company for nine direct subsidiaries. Other than Ponderosa, the other eight subsidiaries are: (1) Stageline Communications Inc.; (2) SWD Investments, Inc.; (3) Ponderosa PCS; (4) Ponderosa Ventures; (5) Paintbrush LLC; (6) Paintbrush No. 2 LLC; (7) Tensleep LLC; and (8) Fresno River Farming No. 2 General Partnership. Other than the above, Ponderosa Communications Inc. has about twenty additional indirect subsidiaries.¹⁴ As an indirect affiliate of Ponderosa Communications Inc., Ponderosa Cablevision (a direct affiliate of Stageline Communications Inc.) provides Ponderosa’s retail DSL Internet and long distance services as well as fiber for home broadband services to customers adjacent to Ponderosa’s service territory. Common costs shared among Ponderosa and its affiliates account for 71 percent of Ponderosa’s total operating expenses.

3. Public Participation Hearing

On March 27, 2017, the Commission held a publicly Noticed Public Participation Hearing (PPH) at the North Fork Rancheria Community Center, 56901 Kunugib North Fork, California, to take comments from the public, ratepayers, and elected or official representatives of the serviced communities and counties. The PPH was well attended, and several commenters spoke

¹⁴ Detailed information about Ponderosa Communications Inc. and its affiliates (direct and indirect) was provided in the opening testimony of Matthew J. Boos, Ponderosa’s General Manager at 11-13.

mostly in support of Ponderosa's Application and proposed rates. Following the PPH, the Commission's Public Advisor's Office received several write-in comments, which also were generally supportive of Ponderosa and its services. Overall, most speakers implored the Commission not to increase their rates beyond what Ponderosa proposed in its Application.

4. Legal and Policy Framework for this GRC

Pub. Util. Code § 451 provides that public utilities may demand and receive only just and reasonable charges, and must provide "adequate, efficient, just and reasonable service" in a way that promotes the "safety, health, comfort, and convenience of [their] patrons, employees, and the public." Pub. Util. Code § 454 requires the Commission to review proposed rates changes, make a finding that they are justified, and authorize the proposed rates changes before they can take effect.

Under Pub. Util. Code § 728, the Commission has the authority to "determine what is just and reasonable, disallow costs that are found to be unjust or unreasonable, and prevent a utility from passing on to the ratepayers unreasonable costs for materials and services by disallowing expenditures that the Commission finds unreasonable."¹⁵ Under the Public Utilities Act, the Commission's primary purpose is to "insure the public adequate service at [just and] reasonable rates without discrimination..."¹⁶

Pub. Util. Code § 275.6 requires the Commission to minimize telephone rate disparities between rural and metropolitan areas to keep rates affordable in

¹⁵ *Id.*

¹⁶ *Pacific Telephone and Telegraph Company v. Public Utilities Commission* (1950) 34 Cal.2d 822,836 [215P.2d 441].

areas with lower population densities. According to Pub. Util. Code § 275.6(c)(2), the Commission must “employ rate of return regulation to determine a small independent telephone corporation’s revenue requirement in a manner that provides revenues and earnings sufficient to allow the telephone corporation to deliver safe, reliable, high-quality voice communication service and fulfill its obligations as a carrier of last resort in its service territory, and to afford the telephone corporation a fair opportunity to earn a reasonable return on its investments, attract capital for investment on reasonable terms, and ensure the financial integrity of the telephone corporation.” Thus, the scope of this proceeding must include all relevant information necessary to determine whether the applicant’s proposed revenue requirement and other requests are just and reasonable, and permit the utility to fulfill its duties under § 451.

5. California High Cost Fund-A

The purpose of the CHCF-A is to provide a source of supplemental revenues to Small Incumbent Local Exchange Carriers (Small ILECs) whose basic exchange access line service rates would otherwise be increased to levels that would threaten universal service. As stated in D.14-12-084, “[u]niversal, reliable, affordable, service is critical to public safety and benefits the state as a whole.”¹⁷

The CHCF-A currently supports eligible small independent telephone companies in helping rural residents stay connected to essential services to maintain public health and safety.

The CHCF-A program is funded by a surcharge assessed on revenues collected from end-users of intrastate telecommunications services subject to surcharge. The Commission periodically reviews the program fund levels and

¹⁷ D.14-12-084 at 53.

adjusts the surcharge rate to ensure the program is sufficiently funded. All telecommunications carriers¹⁸ and interconnected Voice-over Internet Protocol service providers¹⁹ are required to assess the CHCF-A surcharge rate of 0.35 percent.²⁰

In administering the CHCF-A program, the commission must “ensure that rates charged to customers of small independent telephone corporations are just and reasonable and are reasonably comparable to rates charged to customers of urban telephone corporations.”²¹ Historically, “comparable” has meant that target rates for residential customers are no more than 150 percent of basic service rates for California’s urban telephone customers. The “150 percent formula” was originally established in D.91-09-042, and the formula has been used in part to evaluate the reasonableness of rates charged to customers. In D.10-02-016, the Commission modified the 150 percent formula so that the Small ILECs were no longer required to charge up to 150 percent of the basic urban rate to qualify for CHCF-A support, instead setting the basic service rate for residential customers at \$20.25 per month.²² This requirement remained in effect until the Commission adopted D.14-12-084 in its CHCF-A rulemaking (R.11-11-007),²³ which set the all-inclusive reasonable rate range, including

¹⁸ See Pub. Util. Code § 275.

¹⁹ See Pub. Util. Code § 285(c).

²⁰ Resolution T-17453, issued on November 21, 2014, set a surcharge rate of 0.35 percent effective January 1, 2015.

²¹ See Pub. Util. Code § 275.6(c)(3).

²² See D.10-02-016, Ordering Paragraph (OP) 3.

²³ See R.11-11-007.

federal and state fees and surcharges, of \$30.00 to \$37.00.²⁴

In this GRC, as in all others, the Commission seeks to promote the public interest. Promoting the public interest in this case requires that the Commission carefully review the revenue requirement request of Ponderosa with an eye toward protecting not only Ponderosa's ratepayers and customers, but also all other carriers' customers that pay into the CHCF-A from which Ponderosa is requesting funding. In carrying out this responsibility, the Commission assesses whether Ponderosa has justified its revenue increase proposals, and disallows those proposals that have not been justified.

In its Application, Ponderosa requested a CHCF-A draw of \$5,491,829 in this GRC for TY 2018, which is an increase from its currently authorized CHCF-A subsidy draw of \$3,792,252.²⁵ Pursuant to Pub. Util. Code § 275.6(c)(7), the Commission must ensure that Ponderosa's CHCF-A support is not excessive so that the burden on all contributors to the CHCF-A is limited."

5.1 Means Test for CHCF-A

The Commission limits the CHCF-A support to amounts which would provide no more than either: 1) a utility's authorized intrastate rate of return, or 2) the utility's current funding level for the year for which CHCF-A is being requested, whichever is lower. The foregoing is determined by using a "means test."²⁶ The means test is based, in part, upon at least seven months of recorded data which can then be compared to the utility's forecasted intrastate rate of return based upon its adopted RO for a particular year.

²⁴ See D.14-12-084, OP 9.

²⁵ See Res. T-17297 for authorized CHCF-A subsidy draw of \$3,792,252 for the 2009 TY.

²⁶ See D.91-05-016 as modified and clarified by D.91-09-042.

The CHCF-A support for a utility's test year is determined in its GRC decision. The adopted CHCF-A support for TY 2018 is \$3,616,969 as reflected in the updated RO for TY 2018 filed by the parties on November 13, 2017 (Appendix 4 to this decision). Commission staff will rely upon the RO that the Commission adopts in this GRC decision (Appendix 4) to determine CHCF-A support, as permitted by D.91-09-042. Pursuant to D.91-09-042, "the means test shall not be applied to the determination of a LEC's CHCF-A funding levels following 12 months after a decision or resolution is rendered by the Commission in a LEC's general rate review proceeding."²⁷

6. ORA's Position

California consumer interests in this GRC are represented by ORA,²⁸ and ORA's statutory mandate requires it to "advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the Commission," and "obtain the lowest possible rate for service consistent with reliable and safe service levels." Despite ORA's role in this case, the burden of presenting evidence and justifications for its request remains with Ponderosa.

The record of this proceeding shows that ORA actively engaged with Ponderosa, prior to and after the filing of this Application as required by the Rate Case Plan in D.15-06-048, and discharged its statutory responsibility in this proceeding. ORA filed its protest to Ponderosa's GRC Application timely; and raised relevant questions to test and confirm Ponderosa's assumptions and projections regarding its rate designs, revenue requirements and RO, end-user

²⁷ See D.91-05-016 as modified and clarified by D.91-09-042, OP 2; *see also* D.15 06 048, Appendix A, Table 1.

²⁸ See Pub. Util. Code § 309.5.

rates and proposed CHCF-A subsidy, among others. The issues raised in ORA's protest are listed in Section 1 (Background and Procedural History) above.

ORA participated in the prehearing conference held on December 12, 2016, and conducted a site visit of Ponderosa's business office and areas in and around O'Neals on December 13 and 14, 2016. ORA submitted testimony and work papers, and attended the public participation hearing held on March 27, 2017, in North Fork, California, to obtain comments and feedback from Ponderosa's customers.

In its evaluation of Ponderosa's Application and requests, ORA requested voluminous information and materials from Ponderosa in order to examine the issues raised by the Application and test the validity of Ponderosa's statements and conclusions. Ponderosa responded to ORA's questions and provided ORA with requested information and materials. ORA served testimony of five witnesses on February 24, 2017. In preparing its testimony, ORA issued fourteen sets of detailed data requests, in addition to the pre-filing Minimum Data Request issued by ORA.

ORA's protest to the Application and its testimony were thoughtfully prepared, and its proposals and recommendations were reasonably supported by thorough analysis, calculations and conclusions. ORA's work in this proceeding was helpful and persuasive, and ORA's effective advocacy in this proceeding was a contributing factor to the ALJ's recommendation that the Settlement Agreement be adopted by the Commission.

Due to ORA's participation in this case, Ponderosa accepted: (1) an adjusted/reduced overall intrastate revenue requirement by eliminating

unsupported expense items based on ORA's analysis and conclusions; (2) an adjusted/reduced CHCF-A subsidy draw of \$3,616,969;²⁹ (3) increased rates for its residential and business customers that are reasonably comparable to the rates urban customers pay, pursuant to Pub. Util. Code § 275.6(c); (4) new rules regarding Ponderosa's dealings with its affiliates in order to foster greater accountability and benefits to ratepayers; and (5) new requirements relating to Ponderosa's service quality, safety and project reporting, among others.

Overall, ORA was thorough and diligent in its approach, and ORA effectively discharged its responsibilities to work to protect the interests of California consumers and ratepayers, as required by law.

7. Settlement Agreement between the Parties

In accordance with Article 12 of the California Public Utilities Commission's Rules of Practice and Procedure (Rules), on May 10, 2017, Ponderosa, Ponderosa Cablevision, and ORA (the parties) submitted a "Joint Motion for Adoption of All-Party Settlement Agreement" together with the fully executed "Joint Settlement Agreement" (Settlement Agreement). The parties submitted additional information to the Commission to explain and/or support Settlement Agreement on June 12, July 11, and August 15, 2017. On November 13, 2017, the parties updated the Ponderosa Telephone Company Test Year 2018 Results of Operations included with the Settlement Agreement. The updated information is attached to this decision as Appendix 4.

²⁹ The \$3,616,969 CHCF-A draw is based on the 8.44 percent rate of return (ROR) that the Commission adopted in A.15-09-005. In its Application, Ponderosa had requested \$5,491,829 (at 13.85 percent ROR).

The parties request that the Commission approve the Settlement Agreement, as updated on November 13, 2017, pursuant to Rule 12.1. A copy of the Settlement Agreement, which resolves Ponderosa's GRC in its entirety, is attached hereto as **Appendix 1**.

As reflected in the Settlement Agreement, as modified by the parties on November 13, 2017, based upon the mutual agreement of the parties, the parties agree to a resolution of Ponderosa's GRC Application for the TY 2018 as follows:

- A. Results of Operation. The results of Ponderosa's operations figures shall incorporate the following elements:
- i. **Rate of return:** For purposes of calculating Ponderosa's 2018 test year revenue requirement, Ponderosa shall apply the 8.44 percent cost of capital that the Commission adopted in D.16-12-035 unless D.16-12-035 is later annulled or revised by the Commission or a court of law, or the Commission adopts a new cost of capital for Ponderosa in a subsequent cost of capital proceeding.³⁰
 - ii. **Revenue requirement:** Based on the 8.44 percent rate of return, Ponderosa's intrastate revenue requirement in the amount of \$10,936,966 is agreed to. The revenue requirement will be updated, based on the instructions from the Commission or the reviewing court, if D.16-12-035 is annulled or revised.
 - iii. **End-user rates and rate design:**
 - a) Ponderosa's tariffed basic, residential rates shall be increased to \$25.00, exclusive of any surcharges, fees, or taxes, effective January 1, 2018, with no further adjustments until Ponderosa's next rate case.

³⁰ Should D.16-12-035 be annulled or revised, any resulting adjustments to cost of capital shall be applied to Ponderosa based on the instructions from the Commission or the reviewing court.

- b) Ponderosa's tariffed business rates shall be set at \$37.10, exclusive of any surcharges, fees, or taxes, effective January 1, 2018, with no further adjustments until Ponderosa's next rate case.
- c) Additional services and other rates shall be increased by the same percentage increase as residential rates for 2018 as listed in Attachment 1 to the Settlement Agreement.
- d) **Rate Design.** Ponderosa's rate design shall comprise of the following forecasted revenues:³¹
 - 1. \$2,939,720 in Local Network Services revenues;
 - 2. \$3,501,082 in Interstate Universal Service Fund (USF) support for intrastate revenue requirement;
 - 3. \$445,929 in intrastate access revenues;
 - 4. \$433,266 in miscellaneous and uncollectible revenues; and
 - 5. The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the formula in subpart (b), above. Under the current approved 8.44 percent cost of capital, a CHCF-A draw of \$3,616,969.

The parties agree that any adjustments to federal funding for intrastate operations from the projection informing the settlement shall be subject to adjustment through the normal annual process in D.91-09-042; and adjustments for the revenue effects of "regulatory changes of industry-wide effect," including adjustment to Interstate USF, shall also be governed by the annual process in D.91-09-042 (both herein referred to as "D.91-09-042 adjustments"). Pursuant to D.91-05-016 and D.91-09-042, the D.91-09-042 adjustments shall be subject to

³¹ Please see Appendix 4, which updated the following figures from those contained in the Settlement Agreement.

Communications Division (CD) staff's review and the adjustments may not result in an increased revenue requirement that exceeds the authorized rate of return.

iv. **Income Tax Liabilities:**

- a) The current income tax rate for Ponderosa shall be used for purposes of this Agreement.
- b) If the current income tax rate changes after the decision is issued in this case and before January 1, 2018, then Ponderosa shall file a Tier 2 Advice Letter informing the Commission of the revised revenue requirement within 30-days of the tax change going in to effect.
- c) If the current income tax rate changes on or after January 1, 2018 and after the decision is issued in this case, then Ponderosa shall file a Tier 2 Advice Letter with revised revenue requirement within 30-days of the tax change going into effect.

B. Depreciation. Ponderosa's depreciation rates and service lives shall be as set forth in Attachment 2 to the Settlement Agreement.

C. Affiliates Transaction Rules. Ponderosa shall abide by the following requirements relative to its affiliate:

- i. Ponderosa and each of its affiliates shall be held in separate legal entities.
- ii. Ponderosa shall maintain separate books from its affiliates as to all transactions.
- iii. Ponderosa shall maintain separate bank accounts from its affiliates as to all transactions.
- iv. The cost of any advertising or marketing conducted jointly on behalf of Ponderosa and any of its affiliates shall be apportioned according to the extent that the advertising or marketing benefits each company. Ponderosa's share of the cost of such advertising or marketing shall not exceed an even division of the cost amongst all companies involved in the joint advertising or marketing.

- v. Ponderosa shall not include in its regulated expenses the costs of any joint sponsorships, fundraisers, or charitable donations with its affiliates.
 - vi. Ponderosa shall not transfer any physical assets that are used and useful without first obtaining necessary approvals from the Commission.
 - vii. Ponderosa shall conduct financial transactions with its affiliates at "arms-length."
 - viii. Ponderosa shall ensure that affiliate transactions are conducted at rates and upon terms no less advantageous than those otherwise available to Ponderosa from unaffiliated third parties for similar transactions.
- D. Requirements Relating to Service Quality, Safety and Project Reporting. Ponderosa shall abide by the following requirements relating to service quality, safety and project reporting:
- i. Ponderosa shall serve ORA and the Commission on an ongoing basis with an Annual Progress Report (Report) on the status of its plant additions. The report shall be submitted on or before September 15 of each year with information covering an annual period. The Report, which shall be submitted in excel format, and shall be submitted using the format attached herein as Attachment 3 to the Settlement Agreement.
 - ii. If Communications Division facilitates a workshop on the topic of service quality and investments in broadband infrastructure projects, Ponderosa shall actively participate with ORA in such workshop.
 - iii. Ponderosa shall make good-faith best efforts to establish formal Mutual Aid Agreements with other utilities, emergency responders, and local organizations;
 - iv. Ponderosa shall incorporate its emergency equipment list into its emergency planning documents;
 - v. Ponderosa shall incorporate its recovery and restoration strategy into its emergency planning documents.
- E. Other Agreements. Other than the above specific provisions in the Settlement Agreement, resolving Ponderosa's GRC

Application for the Test Year 2018, the parties further agree as follows, among others:

- i. **Compromise and Settlement.** This Agreement constitutes a compromise and settlement of any and all disputed proposals or claims by the Parties; and no action taken by either Party in connection with this Agreement shall be deemed or construed to be (i) an admission of the truth or falsity of any proposals or claims made by the other party or (ii) a waiver of any objection or claim in any motion to strike.
- ii. **Settlement Agreement Not Precedent.** The provisions of this Settlement Agreement shall not be construed as or deemed to be a precedent by any party or the Commission with respect to any issue, principle, or interpretation or application of law and regulations, for any purpose or in connection with any proceeding before a court of law or any state or federal government regulatory body.
- iii. **Settlement Agreement Not Severable or Modifiable, except by the parties.** The provisions of this Settlement Agreement are not severable and shall become effective only after the Commission has entered an order approving this Settlement Agreement without modification. In the event this Settlement Agreement is not accepted in its entirety by the Commission, the Settlement Agreement shall be deemed to be withdrawn, without prejudice to any claims, positions or contentions that may have been made or are made in this proceeding by any party and shall not be admissible in evidence or in any way described in any proceedings hereinafter. The Settlement Agreement cannot be amended or changed except by a written amendment signed by all Parties and approved by the Commission.
- iv. **Commission Has Exclusive Jurisdiction over Settlement Agreement.** The Commission shall have exclusive jurisdiction over all issues related to this Settlement Agreement. No other court, regulatory agency or other governing body will have jurisdiction over any issue related to the interpretation of this Settlement Agreement, or the rights of the Parties in this Settlement Agreement, with the

exception of any court that may now or in the future, by statute or otherwise, have jurisdiction to review Commission decisions.

- v. **Settlement Agreement Binding on Parties.** This Settlement Agreement shall be binding on each signatory to the Settlement Agreement.
- vi. **Parties' Entire Agreement and Understanding.** This Settlement Agreement constitutes and represents the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, negotiations, representations, warranties and understandings of the parties with respect to the subject matter set forth herein. Any uncertainty or ambiguity in the Settlement Agreement shall not be interpreted against any party on the basis that such party drafted or prepared the Settlement Agreement.
- vii. **Admission of Testimony into the Record of Proceeding.** As further provided in Section 10 below and in the Settlement Agreement, Ponderosa and ORA agree (and thus request) to admit into the record of this proceeding testimony already served (by the parties), without waiving the right to object to such testimony or to cross-examine witnesses sponsoring such testimony in the event the Commission rejects or modifies the terms of this Settlement Agreement.
- viii. **Agreement Resolves All Issues.** The Settlement Agreement resolves all outstanding issues in this proceeding.

The parties assert that in reaching the above settlement, they applied their expertise, experience and knowledge of the issues in this case, and that based on "the breadth and thoroughness of discovery in this case [that] facilitated well-informed settlement discussions," that have demonstrated that the Settlement Agreement is reasonable. The parties argue that the mutual endorsement of the Settlement Agreement by the parties attests to the

reasonableness of the pending settlement, and that all parties believe that the settlement is a fair, agreed-upon resolution of Ponderosa's GRC.

The parties contend that the Settlement Agreement, of which essential terms are presented above, is reasonable in light of the whole record, consistent with law, and in the public interest. Accordingly, the parties request that the Commission finds that the Settlement Agreement meets the requirements and/or standards under Rule 12.1(d), and adopts the Settlement Agreement as a full resolution of the issues in this proceeding.

7.1 Rulings and Information Received After the Filing of Settlement Agreement

Following the filing of the Joint Motion for the adoption of the Settlement Agreement, the ALJ issued rulings on May 22, 2017, July 26, and November 8, 2017 in order to obtain additional information in support of the proposed settlement from the parties, and/or require explanations (from the parties) regarding various provisions of the Settlement Agreement. The parties timely responded to the ALJ ruling, and submitted their: (1) June 12, 2017 Joint Response to the May 22, 2017 ALJ's E-mail Ruling Requesting Additional Information in Support of Proposed Settlement; (2) July 11, 2017 Joint Response to the ALJ's June 26, 2017 E-mail Ruling Requesting Information in Support of Proposed Settlement; and (3) November 13, 2017 Joint Response to the November 8, 2017 ALJ's E-mail Ruling. Together with the parties' June 12, 2017 Response, the parties submitted an "agreed-upon" "**Ponderosa Telephone Company Test Year 2018 Results of Operations**" as Exhibit A to the June 12, 2017 Response, which has been renamed herein, and is attached as **Appendix 2** to this decision. Additionally, the parties submitted an "illustrative" "**Ponderosa Telephone Company Test Year 2018 Results of Operations,**" as Exhibit B to their June 12, 2017 response (**Appendix 4 herein**). Pursuant to their

November 13, 2017 Joint Response, the parties updated Appendix 2 and 4, to reflect changes to the CHCF-A and USF figures for Ponderosa 2018 test year funding.

The parties contend that Appendix 4 is for illustrative purpose, and should be used only for the limited purpose of determining and/or performing the “means test” component of Ponderosa’s future annual CHCF-A filings. The Commission disagrees with the parties’ proposed limited use of Appendix 4, and accordingly, the Commission finds it appropriate and reasonable to adopt the RO submitted by the parties in Appendix 4 for all purposes, consistent with established and historical GRC processes practiced by all Commission Industry Divisions, including the Communications Division.

That is, because the Settlement Agreement did not include the same level of detailed financial information contained in Appendix 4, the figures in Appendix 4 shall be adopted by the Commission as TY 2018 RO for all purposes. We find that Appendix 4 is reasonable, and that it reflects TY 2018 RO based on this record.

7.2 Settlement Agreements and Rule 12.1 Analysis

In evaluating a settlement, the Commission is guided by Rule 12.1(d), which requires that the settlement be reasonable in light of the whole record, consistent with law, and be in the public interest.³² Generally, the parties’ evaluation carries material weight in the Commission’s review of a settlement.³³

This Settlement Agreement was reached after significant data exchange

³² Rule 12.1(d); *See* also D.07-05-060.

³³ *In re Southern California Gas Co.* (1999) D.00-09-034, 2000 Cal. PUC LEXIS 694 at *31.

between the parties, submission of testimony, provision of required notices by Ponderosa to its customers, public and elected officials, public participation hearing and negotiations between the parties.³⁴ ORA conducted a site visit of Ponderosa on December 13 and 14, 2016, and issued 14 detailed sets of data requests (including over 300 questions and subparts), in addition to “Minimum Data Requests” issued before the Application was submitted pursuant to the Rate Case Plan in order to examine the issues raised by Ponderosa’s Application, and test the validity of Ponderosa's statements and conclusions. Ponderosa responded to each of the data requests with substantially responsive information. In addition, Ponderosa submitted direct testimony of seven witnesses supporting the relief sought in the Application, and ORA submitted responsive testimony of five witnesses on February 24, 2017. On April 3, 2017, Ponderosa served rebuttal testimony from six witnesses to ORA’s testimony.³⁵ On May 5, 2017, the parties held a duly-noticed all-party settlement conference in compliance with Rule 12.1(b), resulting in the execution of the All-Party Settlement Agreement herein. On May 10, 2017, the parties submitted a joint motion for adoption of the all All-Party Settlement Agreement.

The Settlement Agreement resolves each and every issue identified in the Assigned Commissioner’s Scoping Memo and Ruling issued on December 20, 2016, and addresses issues raised in ORA’s protests, and is a reasonable resolution of these issues. Pursuant to the Settlement Agreement, and supplemental information provided after the filing of the Settlement Agreement

³⁴ See the parties’ Joint Motion at 2; and the Settlement Agreement at 2.

³⁵ These include the rebuttal testimony of Matthew J. Boos, Dale Lehman, Eric Vargas, Carol E. Matthey, Joanne Reuter, and Daniel K. Douglas.

with the Commission, Ponderosa accepts rate increases for its residential and business customers, and agrees to an overall intrastate revenue requirement of \$10,936,966 for the test year 2018 (TY 2018) including a subsidy draw of \$3,616,969 (per November 13, 2017 Joint Response by the parties) from the California High Cost Fund-A. The agreed-to intrastate revenue requirement reflects various adjustments/deductions requested by ORA,³⁶ and substantially addresses the issues raised by ORA in its protest and testimony. Based on this record, the agreed-to intrastate revenue requirement reflects a total reduction of \$996,709 from the originally requested intrastate revenue requirement of \$11,933,675 for the 2018 TY in Ponderosa's application, and a reduction in the CHCF-A draw.³⁷ In addition, Ponderosa accepts new affiliate transaction rules that will lead to greater transparency, greater accountability and greater reporting of Ponderosa's dealing and transactions with its affiliates, and accepts new requirements relating to service quality, safety and project reporting that will benefit consumers and ratepayers.

Overall, the record of this proceeding demonstrates that the Settlement Agreement is reasonable in light of the whole record, consistent with law, and is in the public interest, as discussed below. The proposed Settlement Agreement is reasonable because it saves the Commission and the parties significant time

³⁶ See the Comparison of Parties' Positions and Settlement Terms attached to this decision as Appendix 3, and the updated Results of Operations submitted by the parties on November 13, 2017.

³⁷ The agreed-to \$10,936,966 intrastate revenue requirement and the \$3,616,969 CHCF-A subsidy draw for the test year 2018 are based on the 8.44 percent rate of return (ROR) agreed to by the parties in the Settlement, plus additional adjustments/reductions. Otherwise, Ponderosa's requested intrastate revenue requirement for the test year 2018 in its application was \$13,993,453 based on the 13.85 percent ROR. At 13.85 percent ROR, Ponderosa's CHCF-A draw would be \$5,491,829.

and, protects the public interest when compared to the uncertain risk, expense and complexity of a litigated outcome.

The proposed settlement is supported by the record in this proceeding, and the settlement benefits the public by ensuring that: (1) Ponderosa's CHCF-A subsidy draw for the 2018 TY is reasonable (by reducing the CHCF-A amount Ponderosa requested in its Application); (2) Ponderosa's residential and business customers pay rates that are reasonably comparable to the rates urban customers pay, pursuant to Pub. Util. Code § 275.6(c)(3);³⁸ (3) Ponderosa adopts new affiliate transaction rules that will lead to greater transparency, accountability and reporting of affiliates dealings and transactions; and (4) Ponderosa adopts new requirements relating to service quality, safety and project reporting that will benefit consumers and ratepayers. Overall, the Settlement Agreement offers a reasonable resolution in light of the evidence, and avoids continued litigation and associated costs.³⁹

While the Settlement Agreement is binding on the parties, it creates no precedent on the Commission. The Settlement Agreement preserves the Commission's authority and jurisdiction over each and every issue in this proceeding, and over the parties with regards to the interpretation, implementation and enforcement of the Settlement Agreement. The Settlement Agreement provides sufficient information to enable the Commission to enforce

³⁸ The rate increases move the rates paid by Ponderosa's customers towards the target rates (of not more than 150 percent of basic service rates of California's urban telephone customers) for Ponderosa's residential customers as established by the Commission in D.91-09-042, and are within the Commission established all-inclusive reasonable rate range of \$30.00 to \$37.00 for residential customers. By raising the rates, the amount of Ponderosa's CHCF-A subsidy draw is reduced, and the CHCF-A is not overburdened.

³⁹ See D.07-05-060, O.P. at 6.

its terms and discharge the Commission's future regulatory responsibilities with respect to the parties and interests in this proceeding. The settlement does not contravene any statutory provisions or prior Commission decisions.

In conclusion, the All-Party Settlement Agreement, as modified by the November 13, 2017 updated RO, fairly resolves all issues in this proceeding, and complies with Rule 12.1(d). Accordingly, the Commission should adopt the Settlement Agreement without modification. Based on this record, evidentiary hearings are no longer necessary in this proceeding. (*See* also Section 12 below.)

8. Safety Considerations

We have considered the potential safety implications of the Settlement Agreement and are satisfied that the intrastate revenue requirement approved in this decision will help Ponderosa meet the Commission's minimum safety goals and expectations for small local exchange telecommunications companies and/or carriers, and as a public utility that is required to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public," pursuant to Pub. Util. Code § 451.

9. Conclusion

We conclude that Ponderosa's GRC Application should be resolved by approving the parties' All-Party Settlement Agreement. In addition, the intrastate revenue requirement of \$10,936,966 based on the terms of the Settlement Agreement should be adopted subject to the terms and conditions set forth in the Ordering Paragraphs below. The intrastate revenue requirement of \$10,936.966 adopted herein, will enable Ponderosa fulfill its obligations as a carrier of last resort in its service territory; afford Ponderosa a fair opportunity to

earn a reasonable return on its investments, attract capital for investment on reasonable terms, and ensure the financial integrity of Ponderosa; and assist Ponderosa in meeting the Commission's minimum safety goals and expectations for small local exchange telecommunications companies and/or carriers pursuant to Pub. Util. Code § 451.

10. Request to Admit Testimony

Ponderosa and ORA agree and thus request that previously served testimony should be admitted into the record of this proceeding, without waiving the right to object to such testimony or to cross-examine witnesses sponsoring the testimony in the event the Commission rejects or modifies the terms of this Settlement Agreement. Based on the agreement of the parties and finding good cause, we admit into the record of this proceeding: (1) Ponderosa's opening testimony (served on October 3, 2016 in support of its Application) consisting of the testimony of Kristann Silkwood Mattes, Matthew J. Boos, Daniel K. Douglas, Fred Lofy, Eric Vargas, Dr. Dale Lehman, and Joanne Reuter; (2) ORA's testimony (served on February 24, 2017) consisting of the testimony Enrique Gallardo, Quang Pham, James Ahlsted, Patrick Hoglund, and Laura Roman; and (3) Ponderosa's rebuttal testimony (served on April 3, 2017) consisting of the testimony of Matthew J. Boos, Dale Lehman, Eric Vargas, Carol E. Matthey, Joanne Reuter, and Daniel K. Douglas.

11. Confidential Testimony and Materials under Seal

The parties submitted certain reports, exhibits and testimony designated as "Confidential." The marking of these reports, exhibits and testimony as "confidential" is deemed to be a request by each party for leave to file those reports and testimony under seal pursuant to Rule 11.4. These materials, including the confidential work papers and exhibits to Ponderosa Application

and/or testimony, and the confidential testimony of Daniel K. Douglas; Fred Lofy; Eric Vargas; Matthew J. Boos; and Dale Lehman, and confidential versions of ORA's witnesses - Enrique Gallardo; Quang Pham; James Ahlsted; Patrick Hoglund; and Laura Roman, along with attached confidential reports, materials and recommendations, contain sensitive financial data, operational and other privileged information, the disclosure of which could place the moving party in serious disadvantage or unfair business disadvantage. Accordingly, the requests to place these materials under seal pursuant to Rule 11.4 are granted as set forth in the Ordering Paragraphs below.

12. Categorization and Need for Hearing

In Resolution ALJ 176-3386, dated October 13, 2016, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were necessary. ORA filed a protest, and this proceeding was scheduled for evidentiary hearings. However, evidentiary hearings are no longer necessary as the parties have resolved all outstanding issues through the Settlement Agreement adopted by this decision. Given these developments, an evidentiary hearing is no longer necessary, and the preliminary determination is hereby changed to indicate that evidentiary hearings are not required in this proceeding.

13. Comments on Proposed Decision

The proposed decision of ALJ Ayoade in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3. Joint opening comments were filed by the parties on November 13, 2017 by Ponderosa and ORA. No reply comments were filed. The joint opening comments were generally supportive of the proposed decision (PD), and both ORA and Ponderosa urge the adoption of the Settlement

Agreement without modification. Otherwise, the comments argue that certain subjects that were not part of the Settlement Agreement were addressed in the PD, and that the PD should be revised to conform to the parties' intent.

Specifically, the comments singled out issues relating to the PD's proposed adoption of Appendix 4 for all purposes; the PD's alleged intent to "restrict the amount of CHCF-A support" for Ponderosa for TY 2018 based on the RO table; and the PD's alleged intent to "expand the reach of the Settlement Agreement to include Ponderosa's CHCF-A support for 2019. The comments and information provided have been evaluated, and responsive changes were made to the proposed decision as a result of the comments.

14. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Adeniyi A. Ayoade is the assigned ALJ in this proceeding.

Findings of Fact

1. On October 3, 2016, Ponderosa filed this GRC Application seeking to update its intrastate rates and charges, intrastate revenue requirement, establish a rate design and increase its draw from the CHCF-A.
2. The Commission preliminarily categorized this Application as ratesetting, and determined that evidentiary hearings were necessary.
3. ORA, Ponderosa Cablevision and Ponderosa are the only parties in this proceeding.
4. On March 27, 2017, a PPH took place in North Fork, California, to obtain comments and feedback from Ponderosa's customers.
5. The Parties engaged in significant data exchange, contests and analysis of each other's positions and arguments, after which substantive settlement negotiation occurred between the parties.

6. On May 5, 2017, the parties held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b).

7. The parties have arrived at an All-Party Settlement Agreement (Settlement Agreement) resolving all issues in this proceeding, and on May 10, 2017, filed a Joint Motion with Commission for adoption of the Settlement Agreement.

8. On June 12, July 11, and August 15, 2017, the parties filed additional information with the Commission in support of, and to explain, the Settlement Agreement as directed by the Commission in a ruling issued by the ALJ on May 22, June 26, and August 4, 2017, respectively.

9. On November 7, 2017, Ponderosa filed a motion for leave to submit an updated RO tables for TY 2018, and on November 8, 2017, the Commission granted Ponderosa's motion.

10. On November 13, 2017, Ponderosa and ORA jointly filed an updated RO for TY 2018 for Ponderosa.

11. The Settlement Agreement, as modified by the November 13, 2017 updated RO for Ponderosa for TY 2018, resolves all issues in Ponderosa's GRC Application and there is no need for an evidentiary hearing in this proceeding.

12. It is appropriate to adopt the November 13, 2017 updated RO submitted by the parties in Appendix 4 for all purposes, consistent with established and historical General Rate Case processes practiced by all Commission Industry Divisions, including the Communications Division.

13. Based on the Settlement Agreement, it is reasonable to approve intrastate revenue requirement of \$10,936,966 (inclusive of \$3,616,969 in CHCF-A subsidy draw), based on the currently approved 8.44 percent cost of capital in D.16-12-035, for Ponderosa for the 2018 test year.

14. Based on the Settlement Agreement, as modified by the parties'

November 13, 2017 updated RO for TY 2018, it is reasonable to approve Ponderosa's rate design based on the following forecasted revenues:

- a) \$ 2,939,720 in Local Network Services revenues;
- b) \$3,501,082 in Interstate USF support for intrastate revenue requirement;
- c) \$445,929 in intrastate access revenues;
- d) \$433,266 in miscellaneous and uncollectible revenues; and
- e) The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the formula in subpart (b), above. Under the current approved 8.44 percent cost of capital, a CHCF-A draw of \$3,616,969.

15. Based on the Settlement Agreement, it is reasonable to adopt parties' stipulation requiring that any adjustments to federal funding for intrastate operations from the projection informing the settlement should be subject to adjustment through the normal annual process in D.91-09-042, and requiring that adjustments for the revenue effects of "regulatory changes of industry-wide effect," including adjustment to Interstate USF, should be governed by the annual process in D.91-09-042. These adjustments are subject to staff review and the adjustments may not be allowed to result in an increased revenue requirement that exceeds the authorized rate of return pursuant to D.91-05-016 and D.91-09-042.

16. Based on the Settlement Agreement, it is reasonable to adopt Ponderosa's depreciation rates and service lives as set forth in Attachment 2 to the Settlement Agreement.

17. Based on the Settlement Agreement, it is reasonable to approve new requirements and/or rules for Ponderosa and its affiliates as set forth in the Settlement Agreement.

18. Based on the Settlement Agreement, it is reasonable to approve new

requirements relating to Ponderosa's service quality, safety and project reporting as set forth in the Settlement Agreement.

19. Based on the Settlement Agreement, it is reasonable to approve new end-user rates for Ponderosa's residential and business customers as set forth in the Settlement Agreement; and revision of Ponderosa's rates for other services as set forth in Attachment 1 to the Settlement Agreement.

20. Based on the Settlement Agreement, it is reasonable to permit Ponderosa to use its current income tax rate for purposes of this Settlement Agreement. If the current income tax rate changes, after the decision is issued in this case and before January 1, 2018, it is reasonable to require Ponderosa to file a Tier 2 Advice Letter informing the Commission of the revised revenue requirement within 30-days of the tax change taking effect. If the current income tax rate changes on or after January 1, 2018 and after the decision is issued in this case, it is reasonable to require Ponderosa to file a Tier 2 Advice Letter with revised revenue requirement within 30-days of the tax change taking effect.

21. The Settlement Agreement conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

22. Approving the Settlement Agreement, as modified on November 13, 2017, grants the relief requested by the parties, and this relief is not opposed by any party in this proceeding.

23. With the filing of the Settlement Agreement, this proceeding is an uncontested matter, and in approving the Settlement Agreement, as modified on November 13, 2017, this decision grants the relief requested. Evidentiary hearings are no longer necessary.

24. Pursuant to Rule 11.4, the parties have requested to file under seal

confidential materials, including reports, work papers and testimony.

Conclusions of Law

1. Ponderosa's Application for new intrastate rates and charges for telephone services in California, and draw from the CHCF-A should be granted as set forth in the All-Party Settlement Agreement between the parties (**Appendix 1**), as modified on November 13, 2017.

2. The All-Party Settlement Agreement between the parties, as modified on November 13, 2017, complies with Rule 12.1(d) and is reasonable in light of the record, consistent with law and in the public interest. Nothing in the Settlement Agreement contravenes any statute or Commission decision or rule.

3. The Settlement Agreement is reasonable because it affords Ponderosa the opportunity to provide "adequate, efficient, just and reasonable service" in a way that promotes the "safety, health, comfort, and convenience of [their] patrons, employees, and the public."

4. The Settlement Agreement is reasonable because it sets basic rates for Ponderosa's residential customers that are no more than 150 percent of basic service rates for California's urban telephone customers, and reduces the amount of CHCF-A subsidy draw by Ponderosa.

5. The Settlement Agreement is reasonable because it requires Ponderosa to implement new requirements relating to dealings with its affiliate and new requirements relating to Ponderosa's service quality, safety and project reporting designed to lead to greater accountability and benefits to ratepayers.

6. The Settlement Agreement, as modified by the parties' November 13, 2017 updated RO for TY 2018, is binding on all parties, resolves all issues in the proceeding, saves time and resources by avoiding lengthy and costly litigation,

and protects public interests and safety by imposing new accountability and service quality requirements.

7. The benefits of the Settlement Agreement to the public outweigh the benefits and/or burden and uncertainties of continued litigation.

8. The agreed-to intrastate revenue requirement of intrastate revenue requirement of \$10,936,966 (inclusive of \$3,616,969 in CHCF-A subsidy draw) based on the currently approved 8.44 percent cost of capital in D.16-12-035 for TY 2018, is reasonable and supported by the record in this proceeding, and should therefore be approved. The agreed-to intrastate revenue requirement for the 2018 TY reflected needed adjustments (deductions) to Ponderosa's requested intrastate revenue requirement included in its application.

9. Ponderosa should be required to submit a Tier 2 advice letter recalculating its revenue requirement in accordance with any instructions provided by the Commission or a reviewing court within 30 days of any revision or annulment to D.16-12-035 resulting in adjustments to 8.44 percent cost of capital agreed-to and utilized in the Settlement Agreement to calculate Ponderosa's intrastate revenue requirement and CHCF-A subsidy draw. The resulting revenue requirement should be implemented upon approval of the recalculated revenue requirement by the Commission's Director of Communications Division, or after 30 days have expired following Ponderosa's recalculation of its revenue requirement in accordance with the instructions provided by the Commission or a reviewing court and submission of the Tier 2 advice letter to the Commission.

10. Ponderosa's rate design comprising of the following forecasted revenues should be approved:

- a) \$2,939,720 in Local Network Services revenues;

- b) \$3,501,082 in Interstate USF support for intrastate revenue requirement;
- c) \$445,929 in intrastate access revenues;
- d) \$433,266 in miscellaneous and uncollectible revenues; and
- e) The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the formula in subpart (b), above. Under the current approved 8.44 percent cost of capital, a CHCF-A draw of \$3,616,969.

11. Adjustments to federal funding for intrastate operations from the projection informing the settlement should be subject to adjustment through the normal annual process in D.91-09-042. Adjustments for the revenue effects of "regulatory changes of industry-wide effect," including adjustment to Interstate USF, should also be governed by the annual process in D.91-09-042. The adjustments herein are subject to CD's staff review, and the adjustments may not result in an increased revenue requirement exceeding the authorized rate of return.

12. Ponderosa's depreciation rates and service lives should be set as provided in Attachment 2 to the Settlement Agreement.

13. Ponderosa should be required to abide by the requirements relating to its affiliates as set forth in the Settlement Agreement.

14. Ponderosa should be required to abide by the requirements relating to service quality, safety and project reporting as set forth in the Settlement Agreement.

15. Ponderosa should be authorized to adopt new end-user rates for its residential and business customers as set forth in the Settlement Agreement; and revise its rates for other services as set forth in Attachment 1 to the Settlement Agreement.

16. Ponderosa should be authorized to use its current income tax rate for purposes of this Settlement Agreement; and: (a) if the current income tax rate changes after the decision is issued in this case and before January 1, 2018, Ponderosa should be required to file a Tier 2 Advice Letter informing the Commission of the revised revenue requirement within 30-days of the tax change taking effect; and (b) if the current income tax rate changes on or after January 1, 2018 and after the decision is issued in this case, Ponderosa should be required to file a Tier 2 Advice Letter with revised revenue requirement within 30-days of the tax change taking effect.

17. It is reasonable to adopt the November 13, 2017 updated RO (Appendix 4) for all purposes, consistent with established and historical General Rate Case processes practiced by all Commission Industry Divisions, including the Communications Division.

18. The CHCF-A support of \$3,616,969 reflected in Appendix 4 of this decision should be adopted for Ponderosa for TY 2018, subject to any adjustments authorized pursuant to D.91-09-042.

19. Evidentiary Hearings are not necessary in this proceeding.

20. The parties' requests to file confidential materials, including confidential work papers, exhibits and testimony discussed in Section 11 above, under seal should be granted for three years.

21. Within 30 days of the issuance of this decision, Ponderosa should be directed to file a Tier 2 advice letter with revised tariff schedules that implement the Settlement Agreement in Appendix 1. The advice letter should be effective for tariffs and services rendered as of January 1, 2018. Within 7 days of the effective date of the advice letter, Ponderosa should be directed to notify its customers of the revised tariffs and rates.

22. The June 12, 2017, July 11, 2017, August 15, 2017 and November 13, 2017 responses of the parties in support and/or to update their Settlement Agreement as directed by the Administrative Law Judge rulings issued on May 22, 2017, June 26, 2017, August 4, 2017 and November 8, 2017, respectively, should be accepted and admitted into the record of this proceeding.

23. All pending motions in this proceeding not specifically addressed in this decision, or previously addressed, should be denied as moot.

O R D E R

IT IS ORDERED that:

1. The May 10, 2017 Joint Motion by the Commission's Office of Ratepayer Advocates, Ponderosa Cablevision, and The Ponderosa Telephone Co. (U1019C) (the parties) for the Commission's Adoption of the All-Party Settlement Agreement in Application 16-10-001 is granted pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure.

2. The All-Party Settlement Agreement between the parties (**Appendix 1**), as modified by the parties' November 13, 2017 updated Results of Operations for Test Year 2018 is approved. Pursuant to the terms of the Settlement Agreement, and the November 13, 2017 updated Results of Operations for Test Year 2018 for Ponderosa, The Ponderosa Telephone Co.'s Application for new intrastate rates and charges for telephone services in California, and draw from the California High Cost Fund-A, is granted.

3. The terms of the Settlement Agreement, as modified on November 13, 2017, are adopted for the purpose of determining The Ponderosa Telephone Co.'s intrastate revenue requirement for the 2018 test year, end-user rates, other service rates included in Attachment 1 to the Settlement Agreement, rate of

return, income tax liabilities, depreciation, affiliates rules, and requirements relating to service quality, safety and project reporting for the 2018 test year.

4. The Ponderosa Telephone Co.'s rate design for Test Year 2018 shall comprise of the following forecasted revenues:

- a) \$2,939,720 in Local Network Services revenues;
- b) \$3,501,082 in Interstate Universal Service Fund support for intrastate revenue requirement;
- c) \$445,929 in intrastate access revenues;
- d) \$433,266 in miscellaneous and uncollectible revenues; and
- e) The remainder necessary to fulfill revenue requirement from the California High-Cost Fund-A, based on the revenue requirement established pursuant to the formula in subpart (b), above. Under the current approved 8.44 percent cost of capital, a California High-Cost Fund-A draw of \$3,616,969.

5. Adjustments to federal funding for intrastate operations from the projection informing the settlement shall be subject to adjustment through the normal annual process in Decision (D.) 91-09-042. Adjustments for the revenue effects of "regulatory changes of industry-wide effect," including adjustment to Interstate Universal Service Fund, shall also be governed by the annual process in D.91-09-042. The adjustments shall be subject to Communication Division's staff review; and the adjustments may not result in an increased revenue requirement exceeding the authorized rate of return.

6. Basic residential rate of \$25.00 per month, exclusive of any surcharges, fees, or taxes is adopted for The Ponderosa Telephone Co. (Ponderosa) effective January 1, 2018. Within 30 days of the issuance of this decision, Ponderosa shall file a Tier 2 advice letter with revised tariffs setting the basic residential rate at \$25.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1,

2018. Within 7 days of the effective date of the advice letter, Ponderosa shall notify its customers of the revised tariffs and rates.

7. Basic business rate of \$37.10 per month, exclusive of any surcharges, fees, or taxes is adopted for The Ponderosa Telephone Co. (Ponderosa) effective January 1, 2018. Within 30 days of the issuance of this decision, Ponderosa shall file a Tier 2 advice letter with revised tariffs setting the basic business rate at \$37.10 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2018. Within 7 days of the effective date of the advice letter, Ponderosa shall notify its customers of the revised tariffs and rates.

8. The revision of Ponderosa Telephone Co. (Ponderosa)'s rates for other services as set forth in Attachment 1 to the Settlement Agreement is approved effective January 1, 2018. Within 30 days of the issuance of this decision, Ponderosa shall file a Tier 2 advice letter with revised tariffs setting forth the revised rates for others services (as provided in Attachment 1 to the Settlement Agreement), effective January 1, 2018. Within 7 days of the effective date of the advice letter, Ponderosa shall notify its customers of the revised tariffs and rates.

9. The Ponderosa Telephone Co.'s depreciation rates and service lives are adopted as set forth in Attachment 2 to the Settlement Agreement.

10. The Ponderosa Telephone Co. is authorized to revise its rates for its other services as set forth in Attachment 1 to the Settlement Agreement.

11. The Ponderosa Telephone Co. (Ponderosa) is authorized to utilize its current income tax rate for purposes of this Settlement Agreement. If the current income tax rate changes after the decision is issued in this case and before January 1, 2018, Ponderosa shall file a Tier 2 Advice Letter informing the Commission of the revised revenue requirement within 30-days of the tax change taking effect. If the current income tax rate changes on or after January 1, 2018

and after the decision is issued in this case, Ponderosa shall file a Tier 2 Advice Letter with revised revenue requirement within 30-days of the tax change taking effect.

12. Pursuant to the Settlement Agreement, as modified on November 13, 2017, The Ponderosa Telephone Co.'s assumed intrastate revenue requirement of \$10,936,966 (inclusive of \$3,616,969 in California High Cost Fund-A subsidy draw) is approved based on the currently approved 8.44 percent cost of capital in Decision 16-12-035, for its 2018 test year.

13. The Results of Operations (Appendix 4) is adopted for the Ponderosa Telephone Co. for all purposes.

14. The California High Cost Fund-A support of \$3,616,969 reflected in Appendix 4 to this decision is adopted for Test Year 2018 for the Ponderosa Telephone Co., subject to any adjustments authorized pursuant to D.91-09-042. Pursuant to D.91-09-042, "the means test shall not be applied to the determination of a LEC's CHCF-A funding levels following 12 months after a decision or resolution is rendered by the Commission in a LEC's general rate review proceeding."

15. If Decision (D.) 16-12-035 (Application 15-09-005) is annulled or revised, any resulting adjustments to cost of capital should be applied to The Ponderosa Telephone Co. (Ponderosa) based on the instructions from the Commission or the reviewing court. Accordingly, within 30 days of any revision or annulment to D.16-12-035 resulting in adjustments to 8.44 percent cost of capital agreed-to and utilized in the Settlement Agreement (to calculate Ponderosa's intrastate revenue requirement and California High Cost Fund-A subsidy draw) Ponderosa shall submit a Tier 2 advice letter recalculating its revenue requirement in accordance with the instructions provided by the Commission or a reviewing

court. The resulting recalculated revenue requirement shall be implemented after 30 days of Ponderosa's recalculation of its revenue requirement in accordance with the instructions provided by the Commission or a reviewing court and submission of the Tier 2 advice letter to the Commission, or upon the approval of the Director of the Commission's Communication Division of the recalculated revenue requirement, whichever occurs first.

16. Subject to the specific terms of, and actual language in, the Settlement Agreement:

- a. The Ponderosa Telephone Co. (Ponderosa) and each of its affiliates must be held in separate legal entities.
- b. Ponderosa shall maintain separate books from its affiliates as to all transactions.
- c. Ponderosa shall maintain separate bank accounts from its affiliates as to all transactions.
- d. The cost of any advertising or marketing conducted jointly on behalf of Ponderosa and any of its affiliates will be apportioned according to the extent that the advertising or marketing benefits each company. Ponderosa's share of the cost of such advertising or marketing will not exceed an even division of the cost amongst all companies involved in the joint advertising or marketing.
- e. Ponderosa shall not include in its regulated expenses the costs of any joint sponsorships, fundraisers, or charitable donations with its affiliates.
- f. Ponderosa shall not transfer any physical assets that are used and useful without first obtaining necessary approvals from the Commission.
- g. Ponderosa shall conduct financial transactions with its affiliates at "arms-length."
- h. Ponderosa will ensure that affiliate transactions are conducted at rates and upon terms no less advantageous than those otherwise available to Ponderosa from unaffiliated third parties for similar transactions.

17. Subject to the specific terms of, and actual language in, the Settlement Agreement, The Ponderosa Telephone Co. (Ponderosa) shall abide by the following requirements relating to service quality, safety and project reporting:

- a. Ponderosa shall serve Office of Ratepayer Advocates and the Commission on an ongoing basis with an Annual Progress Report (Report) on the status of its plant additions. The report shall be submitted on or before September 15 of each year with information covering an annual period. The Report, which shall be submitted in excel format, will be submitted using the format provided in Attachment 3 to the Settlement Agreement.
- b. If Communications Division facilitates a workshop on the topic of service quality and investments in broadband infrastructure projects, Ponderosa shall actively participate with ORA in such workshop.
- c. Ponderosa shall make good-faith best efforts to establish formal Mutual Aid Agreements with other utilities, emergency responders, and local organizations;
- d. Ponderosa shall incorporate its emergency equipment list into its emergency planning documents;
- e. Ponderosa shall incorporate its recovery and restoration strategy into its emergency planning documents.

18. The specific terms of this Settlement Agreement, as modified on November 13, 2017, approved and adopted herein shall be binding on all parties. The terms of the All-Party Settlement Agreement, as modified by the November 13, 2017 Joint Response of The Ponderosa Telephone Co., Ponderosa CableVision, and the Office of Ratepayer Advocates, shall be enforceable by the Commission against all parties to the Settlement Agreement, and any violation of its terms may subject the parties to Commission actions, including penalties or sanctions.

19. The parties must comply with all provisions of the Settlement Agreement, as modified by the November 13, 2017 Joint Response of The Ponderosa

Telephone Co., Ponderosa CableVision, and the Office of Ratepayer Advocates. Any conflict between the terms of the Settlement Agreement and this decision shall be resolved in favor of the Settlement Agreement, as modified on November 13, 2017.

20. All testimony served in this proceeding are admitted into the record of this proceeding. Confidential testimony are admitted and placed under seal.

21. The June 12, 2017, July 11, 2017, August 15, 2017 and November 13, 2017 responses of the parties in support and/or to update their Settlement Agreement as directed by the Administrative Law Judge rulings issued on May 22, 2017, June 26, 2017, August 4, 2017 and November 8, 2017, respectively, are accepted and admitted into the record of this proceeding.

22. The November 13, 2017 Response of the Ponderosa Telephone Co., Ponderosa Cablevision and The Office of Ratepayer Advocates and updated Results of Operations for Test Year 2018 submitted therewith are accepted and moved into the record. The November 13, 2017 updated Results of Operations for Test Year 2018 for ponderosa is adopted.

23. The provisions of this Settlement Agreement shall not be construed as precedent and in no way bind the Commission.

24. The Commission shall have exclusive jurisdiction over all issues related to this Settlement Agreement.

25. Evidentiary hearings are no longer required in this proceeding.

26. The parties' request to place the following confidential materials under seal is granted for three years from the date of this decision: (a) The Ponderosa Telephone Co. (Ponderosa) confidential opening testimony (including confidential work papers and exhibits) of Daniel K. Douglas, Fred Lofy, Eric Vargas, Matthew J. Boos, and Dale Lehman (served on October 3, 2016);

(b) confidential versions of the Office of Ratepayer Advocates' testimony of Enrique Gallardo, Quang Pham, James Ahlsted, Patrick Hoglund, and Laura Roman, along with attached confidential reports, materials and recommendations (served on February 24, 2017); and (c) Ponderosa's rebuttal testimony of Matthew J. Boos, Dale Lehman, Eric Vargas, Carol E. Matthey, Joanne Reuter, and Daniel K. Douglas (served on April 3, 2017). The above confidential materials shall remain under seal for three years. During the three-year period, this information shall not be publicly disclosed except on further Commission order or by an Administrative Law Judge Ruling. If the parties believe that it is necessary for this information to remain under seal for longer than three years, the parties may file new motions showing good cause for extending this order by no later than 30 days before the expiration of this order.

27. All pending motions in this proceeding that are not specifically addressed in this decision, or previously addressed in this proceeding, are denied.

28. Application 16-10-001 is closed.

This order is effective today.

Dated November 30, 2017, at San Francisco, California.

MICHAEL PICKER
President
CARLA J. PETERMAN
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
Commissioners