

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

**Communications Division  
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17619  
August 9, 2018**

**R E S O L U T I O N**

**Resolution T-17619, Sierra Telephone Company.** Order Authorizing a Reduction of \$752,854 in Adopted Revenue Requirement for Test Year 2018 and a Corresponding Reduction of \$752,854 in California High Cost Fund-A Support for Test Year 2018 to flow through changes resulting from the Tax Cuts and Jobs Act of 2017.

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**SUMMARY**

This resolution flows through revenue requirement and California High Cost Fund-A changes from the Tax Cuts and Jobs Act of 2017, which became effective on January 1, 2018. Specifically, this resolution adopts a revised revenue requirement of \$22,822,565 for Sierra Telephone Company's Test Year 2018, and a corresponding revised California High Cost Fund-A support amount of \$12,221,244 resulting in a reduction of \$752,854 in California High Cost Fund-A support for 2018.

**BACKGROUND**

The California High Cost Fund-A (CHCF-A) program operates in accordance with Public Utilities (P.U.) Code § 275.6. This statute requires the Commission to implement a program to reduce any rate disparity between rural and urban areas charged by Small Incumbent Local Exchange Carriers (hereafter referred to as Small ILECs) that are subject to rate-of-return regulation.

Decision (D.) 17-11-016 approved an all-party Settlement Agreement in Sierra Telephone Company's (Sierra) general rate case (GRC) for rates effective January 1, 2018. This decision's Ordering Paragraph (O.P.) 8 required Sierra to submit an advice letter informing the Commission of any income tax change within 30 days of its effective date.<sup>1</sup>

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<sup>1</sup> On November 30, 2017, the Commission issued D.17-11-016 and ordered that if Sierra's then-current income tax rate changes on or after January 1, 2018 and after the decision is issued in this case, Sierra shall file a Tier 2 Advice Letter with revised revenue requirement within 30-days of the tax change taking effect.

The Tax Cut and Jobs Act of 2017 (TCJA) was signed into law on December 22, 2017 and became effective January 1, 2018. Among other things, the TCJA reduced the top corporate income tax rate from 35% to 21%.<sup>2</sup>

Accordingly, on February 1, 2018, Sierra Telephone Company (Sierra) filed a Tier 2 Advice Letter (AL) 450 proposing an adjustment in its revenue requirement applicable to taxable operating revenue to reflect the impact of the TCJA. Specifically, Sierra proposed \$225,735 decrease from the approved revenue requirement of \$23,575,419 and an equal \$225,734 decrease from the CHCF-A support of \$12,974,098 approved in D.17-11-016, resulting in a revenue requirement of \$23,349,684 and CHCF-A support of \$12,748,363. Sierra did not propose any other adjustments.

In May 2018, the Small ILECs submitted a letter to the Communications Division's Director, citing a material change in the National Exchange Carrier Association's (NECA) interpretation of how federal rules are to apply to deferred tax calculations in light of the TCJA.<sup>3</sup> NECA works with the Federal Communications Commission (FCC) and is responsible for interpreting federal separations and accounting requirements. The letter revised/updated previous guidance that it provided to carriers in a January 2018 letter. The new NECA interpretation instead requires regulated utilities to "follow the normalization method of accounting and flow back the excess deferred taxes ratably over the life of the timing difference that gave rise to the excess."

### **Notice/Protest**

The Commission Daily Calendar published Notice of AL 450 on February 05, 2018. The Office of Ratepayer Advocate (ORA) filed a protest to AL 450 on February 20, 2018. ORA indicated that (1) Sierra did not include all necessary adjustments to accurately reflect changes to the federal income tax rate; (2) Sierra proposed a revenue requirement that could result in excess revenue and excess CHCF-A support; and (3) that Sierra should calculate excess reserve tax to be "flowed through" back to the ratepayers.

Sierra's responded to ORA's protest on February 28, 2018, stating that AL 450 was properly supported and submitted. Sierra claims that ORA's protest has no merit and should be rejected.

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<sup>2</sup> Sierra's adopted revenue requirement for TY 2018 per D.17-11-016 was based on a 34% federal income tax rate.

<sup>3</sup> See Appendix B.

## DISCUSSION

### Staff's Review of Sierra's Methodology

Staff has reviewed Sierra's AL 450 and observes that Sierra calculated the new federal income tax by adjusting the operating tax expense and deferred (income) tax reserve at the new 21% tax rate and then by applying this adjustment to reduce the level of CHCF-A operating revenues. Under Sierra's method, the recalculated income tax caused a \$225,735 reduction in Sierra's revenue requirement for TY 2018 from \$22,575,419 to \$23,349,684, and the equal amount of reduction in Sierra's CHCF-A support for TY 2018 from \$12,974,419 to \$12,748,363.

While Sierra appropriately accepts the reduced corporate tax rate of 21% for operating tax expense, its treatment ignores the full impact on deferred income taxes and is incorrect on two fronts. First, Sierra's method omits the return of any excess deferred taxes to ratepayers. Second, Sierra's method does not address excess deferred taxes from the rate base reduction.

Deferred income taxes for ratemaking represent funds that ratepayers have provided to the utility for income taxes presumably to be paid in the future, due to timing differences between straight line depreciation for ratemaking and accelerated depreciation for income tax filings. Through 2017, these balances were accumulated using the prevailing tax rate of 34% for Sierra. Once the federal income tax rate was reduced to 21%, a lower amount of ratepayer funds are needed to pay those future tax liabilities, and thus these excess funds should be returned to Sierra's ratepayers.

Furthermore, Sierra's methodology would be contrary to Commission normalization rules if it were to be adopted, as Sierra's method effectively reduces the excess tax reserve to zero instantly. Under normalization rules, excess deferred taxes should instead be flowed through ratably over the life of the timing difference that gave rise to the excess. Consequently, the impact of reducing past accumulated excess deferred taxes should increase the projected tax savings.

Therefore, Staff concludes that a further reduction in Sierra's revenue requirement from the TCJA to account for the change in excess deferred taxes according to normalization rules is needed.<sup>4</sup> NECA's revised interpretation also supports a further adjustment for deferred taxes according to normalization rules. Moreover, we have

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<sup>4</sup> Staff also corrects for Sierra's removal of the entire excess deferred tax balance from rate base.

consulted with the Energy and Water Divisions to develop consensus that deferred taxes should be further adjusted.<sup>5</sup>

### Staff's Calculation

Staff has recalculated the tax impact of the TCJA to include the excess deferred tax impact. Prior to the enactment of the TCJA, Sierra's deferred income tax liability balance was \$5,131,347. On January 1, 2018, the new tax rate of 21% resulted in deferred income tax of \$3,169,361 causing an excess deferred tax reserve of \$1,961,986. This \$1,961,986 should be returned to ratepayers ratably over the remaining life of the assets that gave rise to the excess tax reserve balance. The TCJA provides guidance for the return of the excess deferred tax reserve under normalization rules.<sup>6</sup> In summary, the TCJA rules say that if the excess deferred taxes are to be reduced, they should be reduced no faster than using the average rate assumption method (ARAM). But if the utility does not have the appropriate vintage data to use ARAM, an alternative method based on a composite rate is allowed.<sup>7</sup>

As a result, Staff recommends the \$1,961,986 excess deferred income tax reserve should be returned to ratepayers over the weighted average of the remaining useful life of Sierra's depreciable assets as of December 31, 2017. Appropriately, as the excess deferred tax reserve is returned to Sierra's ratepayers, rate base will be incrementally increased by \$316,449 per year (as the \$316,449 excess remaining in the deferred tax account will be incrementally decreased as it is returned to ratepayers).

To calculate the additional increment for excess deferred tax, Staff relied on information obtained through a data request on April 11, 2018, specifically requesting the weighted average remaining life of Sierra's depreciable assets, which Sierra states is 6.2 years. Staff amortized the excess deferred income tax reserve of \$1,961,986, dividing that amount by 6.2 years to arrive at a credit of \$316,449 per year beginning Test year 2018. Staff added this as a credit to the federal tax amount.

Staff incorporated its methodology and updated the effects of excess deferred tax by line item, which required further steps to reconcile the Results of Operations Table in Appendix A column C, so that the Total (Revenue Requirement) of \$22,822,565 (line 8) equals the sum of Total Operating Expenses of \$20,764,988 (line 18) plus Net Operating Income of \$2,057,577 (line 19), demonstrating proof of a balanced result:

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<sup>5</sup> Energy Division agrees with CD's proposed methodology. Water Division's methodology is quite similar, but further considers changes to franchise fees and uncollectibles, which is not a material factor for communications companies.

<sup>6</sup> Internal Revenue Code Sec. 168(f)(2) contain normalization requirements.

<sup>7</sup> Section 13001(d) of the Tax Cuts and Jobs Act of 2017 P.L. 115-97.

- Staff added the first year of the incremental Excess Deferred Tax of \$316,449 as a credit to the federal tax for 2018, lowering tax-related expenses (Deferred Income Tax, line 17, column C);
- The first year of the Unamortized Excess Deferred Tax Balance (\$316,449) is then subtracted from the deferred income tax reserve of 1,961,986 (the difference between line 26, columns A and B), which equals \$1,645,537 in UEDTB remaining for future amortization (line 28, column C);
- Consistent with normalization rules, Staff has reduced Sierra's proposed rate base of \$23,961,986 (line 29, column B) by the unamortized balance of \$1,645,537 left on the excess deferred tax after taking the yearly income tax credit. Thereafter, the rate base will be increased yearly by the \$316,449 amortized amount (see Total Rate Base, line 29, column C, \$22,316,449, compared to line 29, column A, \$22,000,000);
- The Total Rate Base of \$22,316,449 was then multiplied by the Rate of Return (line 30; 9.22%) equals \$2,057,577 in Net Operating Income (line 19, column C);
- Staff's adjustments decreased Sierra's total operating expenses including income taxes by an additional \$375,402 (line 18, comparing columns B and C). This is a sum of two factors: 1) a \$58,953 decrease in State and Federal Income Tax (line 16, column C) and the line 17, column C deferred tax credit of \$316,449;
- To fully recover revenue requirement including the cost of tax liabilities, utilities incorporate a "net to gross multiplier" to account for such liabilities. Sierra calculated and Staff confirms that the NTGM is 1.38857 when California's State Income Tax Rate is 8.84% and the Federal Income Tax Rate is 21%;
- State income tax decreased by \$18,623, as the product of multiplying the difference between Sierra's proposed Net Operating Income of \$2,209,294 and Staff's proposed Income of \$2,057,577 (\$151,717, line 19) by the NTGM of 1.38857; then multiplying that amount by the State Tax Rate of 8.84%;
- Federal income tax decreased by \$40,330, calculated by 1) subtracting the decrease in state income tax from the product of 2) the \$151,316 difference in proposed operating income multiplied by the NTGM, and then 3) multiplying that result by the federal income tax rate of 21% (line 16, columns B and C);
- The resulting gross reduction in Net Operating Income (line 19, \$151,717) and Total Expenses (line 18, \$375,402) equals \$527,119, requiring a further offset to revenue requirement and CHCF-A support between Sierra's and Staff's proposals;
- Therefore, Staff proposes a further reduction of \$527,119 in revenue requirement for TY 2018, from \$23,349,684 to \$22,822,565 (line 8, comparing Sierra's proposal in column B and Staff's result in column C);
- And Staff proposes a further reduction in CHCF-A support by an equal additional amount, from \$12,748,363 to \$12,221,244 (line 7, comparing columns B and C).

- This results in an overall decrease of \$752,854 in Sierra's revenue requirement, from \$23,575,419 to \$22,822,565 (comparing line 8, columns A and C), and an overall decrease of \$752,854 in CHCF-A support, from \$12,974,098 to \$12,221,244 (comparing line 7, columns A and C).

### Summary

While Staff accepts Sierra's reduced tax rate of 21% related to the federal income tax reduction, it has further reduced Sierra's proposed revenue requirement and CHCF-A support by an additional \$527,119 to consider the normalization return of the excess deferred income tax. For TY 2018, Staff proposes a total decrease to Sierra's adopted revenue requirement by \$752,854, from \$23,575,419 to \$22,822,565. Sierra proposes to reflect the reduced revenue requirement by lowering its CHCF-A support in equal amount. Staff agrees with this proposal since approximately half of the company's revenues come from CHCF-A support. For TY 2018, Staff proposes a \$752,854 decrease to Sierra's adopted CHCF-A support, from \$12,974,098 to \$12,221,244.

### COMMENTS

In compliance with P.U. Code § 311(g), the Commission emailed a notice letter on July 6, 2018, informing Sierra of the availability of this Resolution for public comments at the Commission's website [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Comments are due within twenty (20) days of Daily Calendar notification. The notice letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at the same website.

### FINDINGS

1. The Tax Cuts and Jobs Act of 2017 enacted on December 22, 2017, among other things, lowered the corporate federal tax rate from 35% to 21% effective January 1, 2018.
2. Sierra Telephone Company's (Sierra) adopted revenue requirement for Test Year (TY) 2018 pursuant to Decision (D.)17-11-016 dated November 30, 2017, was based on an estimated 34% federal income tax rate.
3. D.17-11-016 ordered Sierra to submit a Tier 2 Advice Letter (AL) with revised revenue requirement within 30 days of the tax change taking effect.
4. Sierra filed Tier 2 AL 450 on February 1, 2018, revising its revenue requirement and California High Cost Fund-A (CHCF-A) support for 2018.

5. In AL 450, Sierra proposed a revised revenue requirement of \$23,349,684 for TY 2018, which is \$225,735 lower than the D.17-11-016 adopted revenue requirement of \$23,575,419.
6. In AL 450, Sierra proposed a revised CHCF-A support of \$12,748,363, which is \$225,735 lower than the D.17-011-016 adopted CHCF-A of \$12,974,098.
7. In AL 450, Sierra did not include the appropriate effect of excess deferred income tax reserve created by the lower tax rate on the revenue requirement.
8. In May 2018, the Small ILECs submitted a letter to the Communications Division Director informing that the National Exchange Carrier Association had revised its previous guidance on the treatment of excess deferred income taxes from the flow-through to the normalization method.
9. Staff received information from Sierra regarding excess deferred income tax reserve through a data request dated April 11, 2018.
10. Sierra should follow Commission normalization requirements for returning the excess deferred tax reserve to ratepayers.
11. Staff calculates that Sierra's excess deferred income tax reserve is \$1,961,986, and this amount should be amortized over the weighted-average life of Sierra's depreciable assets, and be shown as a line item credit to federal income tax over 6.2 years, while keeping the unamortized balance as a rate base reduction item.
12. Staff calculates that, Sierra's amortized excess deferred income tax amount is \$316,449 per year for 6.2 years, which further reduces Sierra's revenue requirement and CHCF-A support, and this should be reflected in Sierra's accounting books and in results of operations table.
13. Staff calculates that Sierra's rate base should be increased (excess deferred tax balance should be decreased) per year by the \$316,449 amount of excess deferred tax listed as a credit to ratepayers. This results in a 2018 rate base of \$22,316,449 compared to Sierra's proposed \$23,961,986.
14. Staff calculates that, Sierra's revised revenue requirement for TY 2018 should be \$22,822,565, which is \$752,854 less than the previously authorized \$23,575,419 in D.17-11-016.
15. Staff calculates that Sierra's CHCF-A support for TY 2018 should be \$12,221,244, which is \$752,854 less than previously authorized \$12,974,098 in D.17-11-016.
16. Sierra's revised revenue requirement and its revised CHCF-A support and other revenue components as shown in Column C of Appendix A of this Resolution are reasonable and should be adopted for TY 2018.

**THEREFORE, IT IS ORDERED that:**

1. Sierra Telephone Company's revised adopted revenue requirement for Test Year 2018 shall be \$22,822,565, which is \$752,854 less than the previously authorized \$23,575,419, as shown in Appendix A of this Resolution.
2. Sierra Telephone Company's California high Cost -A support for Test Year 2018 shall be \$12,221,244, which is \$752,854 less than the previously authorized \$12,974,098, as shown in Appendix A of this resolution.
3. Staff shall revise Sierra Telephone Company's remaining monthly disbursements of California High Cost Fund-A support so that total 2018 payments equal \$12,221,244.
4. Sierra Telephone Company shall show an amortized excess deferred income tax credit of \$316,449 each year as line item, for 6.2 years, until the unamortized balance remaining as a reduction to rate base is fully depleted, in its results of operations table under the federal income tax item starting January 1, 2018.
5. Sierra Telephone Company's deferred tax balance for ratemaking will contain the unamortized balance of excess deferred income tax as a rate base reduction item until the excess deferred balance is fully amortized.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 9, 2018, the following Commissioners voting favorable thereon:

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ALICE STEBBINS  
Executive Director

# APPENDIX

Appendix A Sierra Telephone Company Test Year 2018 Results of Operations				
	Adopted Results of Operations Per D.17-11-016	Sierra Proposed Results of Operations with Tax Rate Change	T-17619 Adopted Results of Operations with Tax Rate Change	
	A	B	C	
Operating Revenues:				
1	Local Rev.	\$ 7,251,907	\$ 7,251,907	\$ 7,251,907
Intrastate:				
2	Access Rev.	791,871	\$ 791,871	\$ 791,871
3	Toll Rev.			
4	Interstate USF	1,382,909	\$ 1,382,909	\$ 1,382,909
5	Interstate Settlement Rev.	-	-	-
6	Miscellaneous Rev. & Uncollect	1,174,634	1,174,634	1,174,634
7	CHCF-A	12,974,098	12,748,363	12,221,244
8	<b>Total</b>	<b>\$ 23,575,419</b>	<b>\$ 23,349,684</b>	<b>\$ 22,822,565</b>
Operating Expenses:				
9	Plant Specific	\$ 5,732,556	\$ 5,732,556	\$ 5,732,556
10	Plt. Non-Spec.(less Depr.)	2,536,177	2,536,177	2,536,177
11	Customer Operations	3,605,205	3,605,205	3,605,205
12	Corporate Operations	1,522,052	1,522,052	1,522,052
13	Depr. & Amort.	6,622,030	6,622,030	6,622,030
14	<b>Total</b>	<b>\$ 20,018,020</b>	<b>\$ 20,018,020</b>	<b>\$ 20,018,020</b>
Tax Liabilities				
15	Other Taxes	374,517	374,517	374,517
16	State and Federal Income Tax	1,154,482	747,853	688,900
17	Amortized Excess Deferred Income Tax			(316,449) <sup>1</sup>
18	<b>Total Expense and Tax</b>	<b>\$ 21,547,019</b>	<b>\$ 21,140,390</b>	<b>\$ 20,764,988</b>
19	<b>Net Operating Income</b>	<b>\$ 2,028,400</b>	<b>\$ 2,209,294</b>	<b>\$ 2,057,577</b>
Rate Base:				
20	2001 - TPIS	\$ 119,790,661	\$ 119,790,661	\$ 119,790,661
21	2003 - TPUC	1,121,991	1,121,991	1,121,991
22	1220 - Mat. and Sup.	1,119,556	1,119,556	1,119,556
23	1500 - Other Regulatory Asset	-	-	-
24	Working Cash	1,615,802	1,615,802	1,615,802
25	Less: Accum. Depr.	(86,796,327)	(86,796,327)	(86,796,327)
26	Less: Deferred Inc Tax	(5,131,347)	(3,169,361)	(3,169,361)
27	Less: Def Asset-Liability	(9,720,336)	(9,720,336)	(9,720,336)
28	UEDTB			(1,645,537) <sup>2</sup>
29	<b>Total Rate Base</b>	<b>\$ 22,000,000</b>	<b>\$ 23,961,986</b>	<b>\$ 22,316,449</b>
30	Rate of Return	9.22%	9.22%	9.22%
1	Line 17: This amount is to be shown for 6.2 years starting TY 2018			
2	Line 28 UEDTB: Unamortized Excess Deferred Tax Balance at year 1 of 6.2 years. This balnce will be be depleted each year by \$316,449.			

End of Appendix A-1

APPENDIX B



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**For your action**  
**2018 federal tax rate change**

May 8, 2018

TO: General contacts at cost companies in CL and TS pool

Due to the 2017 Tax Cuts and Jobs Act, the federal corporate tax rate changed from 35 percent to 21 percent for C Corp companies. Our [January 9, 2018 letter](#) (member login required) instructed companies on adjustments to Account 4340 as required by GAAP.

**Application of tax rate changes**

After further review and subsequent discussions with FCC staff, we have confirmed the proper treatment of the tax rate change for regulated entities. The FCC bases its accounting rules on GAAP to the extent regulatory considerations permit (see 47.CFR §36.1). This situation constitutes one of the variations. While flowing through the full impact of the tax rate difference in Account 4340 deferred taxes as a one-time adjustment in 2017 may be applicable for GAAP reporting purposes, regulated entities for Interstate reporting must follow the normalization method of accounting and flow back the excess deferred taxes ratably over the life of the timing difference that gave rise to the excess (see, e.g., [Report and Order, CC Docket No. 89-360, 9 FCC Rcd. 727 \(1994\)](#) ¶ 6 and ¶ 7).

**Cost study and HCLS submissions**

Companies who made flow-through adjustments to Account 4340 and Account 7250 on their financials in accordance with GAAP, will need to make adjustments to data reported for 2017 cost study and 2018-1 HCLS submissions to remove the impact of flowing through the excess deferred tax. Amortization of excess deferred income taxes will be effective with the change in tax rate on January 1, 2018. 2018 cost studies and the 2019-1 HCLS submission (reflecting 2018 period ending data) will reflect amortized excess deferred taxes using the normalization method.

**Additional guidance**

We are currently updating NECA Reporting Guideline 3.3 Excess Deferred Tax Development, which addresses methods for calculating and amortizing excess deferred taxes as a result of the Tax Reform Act of 1986. Until the guideline is updated, you may find a review of this [document](#) (member login required) helpful in describing the calculations and reporting requirements in settlements. NECA Cost Pool Procedures will also be updated to provide instructions on EC1050 reporting of these amounts for the calculation of federal income tax.

**Questions?**

If you have questions, please contact your member service manager.

Sincerely,

Carol A. Brennan

cc: Authorized consultants