

1 **I. INTRODUCTION.**

2 Pursuant to Rule 11.1 of the California Public Utilities Commission's ("Commission" or
3 "CPUC") Rules of Practice and Procedure ("Rules"), Calaveras Telephone Company (U 1004 C),
4 Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone
5 Company (U 1009 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C),
6 The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The
7 Siskiyou Telephone Company (U 1017 C) and Volcano Telephone Company (U 1019 C)
8 ("Independent Small LECs") hereby move to disqualify current Carrier Oversight and Programs
9 Branch¹ staff assigned to this proceeding from acting as advisors to the Assigned Commissioner
10 and Administrative Law Judge ("ALJ") in this proceeding. As set forth in the contemporaneously-
11 submitted Motion to Strike the Opening Comments of Tyler Werrin ("Motion to Strike") and the
12 associated Declaration of Patrick Rosvall ("Rosvall Declaration"), Alex Lewis-Koskinen appears
13 to be acting as both a Communications Division advisor and a covert advocate in this proceeding.
14 Given the technical expertise, insider knowledge, and sheer work hours that it would have taken to
15 draft the Opening Comments of Tyler Werrin ("Werrin Comments"), it is unlikely that Mr. Lewis-
16 Koskinen acted alone in drafting the comments. The strong appearance of impropriety associated
17 with Mr. Lewis-Koskinen's actions not only justifies his removal from any advisory role in this
18 proceeding, but also justifies replacement of the other Carrier Oversight and Programs Branch
19 advisors currently assigned to this proceeding.

20 This is an unusual motion, but it has been prompted by an extraordinary set of
21 circumstances that threaten the integrity of this proceeding.² The evidentiary support for this
22 motion is provided in the Rosvall Declaration and the associated exhibits as well as the Motion to
23 Strike, both of which are incorporated herein by reference. That evidence reflects a strong
24 likelihood that Alex Lewis-Koskinen was directly involved in the drafting and submission of the

25 _____
26 ¹ The Carrier Oversight and Programs Branch is a subdivision of the Communications Division that has specific
27 authority for dealing with ratemaking and funding issues for rate-of-return regulated telecommunications carriers,
28 including the Independent Small LECs.

² If the relief sought in this Motion cannot be granted by a simple ALJ Ruling, it should be done through an Assigned
Commissioner Ruling. This Motion is designed to request relief through the Motion process so that it can be
appropriately addressed through the procedural vehicle that the Commission sees fit.

1 supposed public comments from his childhood friend, Tyler Werrin. *Rosvall Declaration*, ¶¶ 10-
2 21. Given the nature of Mr. Lewis-Koskinen's apparent actions, the Commission should take
3 utmost care to remove any appearance that Carrier Oversight and Programs Branch personnel are
4 attempting to further manipulate the record in this proceeding or taint the objectivity of the ALJ by
5 acting as advocates outside of the public administrative process.

6 The demonstrated misconduct by Mr. Lewis-Koskinen and the specter of deeper
7 impropriety within the Communications Division justify removing all current Carrier Oversight
8 and Programs Branch advisors assigned to the proceeding and replacing them with new advisors.
9 This step is reasonable given the nature of the evidence presented, and the strong potential for the
10 record to be poisoned if the evidence reveals a conspiracy that goes beyond just Mr. Lewis-
11 Koskinen.

12
13 **II. MR. LEWIS-KOSKINEN'S IMPROPRIETY IN CONNECTION WITH THE**
14 **WERRIN COMMENTS JUSTIFIES HIS REMOVAL FROM ANY ADVISORY**
15 **ROLE IN THIS PROCEEDING.**

16 As set forth in the Motion to Strike filed contemporaneously herewith, and as outlined in
17 the *Rosvall Declaration*, Alex Lewis-Koskinen appears to have submitted opening comments in
18 this proceeding disguised as public comments from an unaffiliated individual. Information from
19 public sources about Mr. Werrin and Mr. Lewis-Koskinen revealed the following:

- 20 1. Mr. Werrin has no background in economics, ratemaking, telecommunications policy,
21 or any other field that would explain how he could have written detailed comments on
the specialized and esoteric matters in R.11-11-007. *Rosvall Declaration*, ¶ 15.
- 22 2. The Werrin Comments were served from a residential address associated with Mr.
23 Lewis-Koskinen, creating a strong inference that Mr. Lewis-Koskinen served the
comments from his home. *Rosvall Declaration*, ¶¶ 10(a), 10(b).
- 24 3. Mr. Werrin and Mr. Lewis-Koskinen grew up in the same neighborhood, remained
25 friends throughout high school and college, and were listed on Facebook as friends as
26 recently as February 23, 2012. *Rosvall Declaration*, ¶¶ 10(c-h).
- 27 4. Mr. Werrin and Mr. Lewis-Koskinen were friends on Facebook and had 11 common
28 friends on Facebook as of February 23, 2012, including Werrin's girlfriend and
Werrin's sister. *Rosvall Declaration*, ¶ 10(e).

1 5. Following a conversation between counsel for the Independent Small LECs and Mr.
2 Werrin on February 23, 2012, Mr. Werrin and Mr. Lewis-Koskinen engaged in an
3 effort to cover up their connection. As of February 24, 2012, Mr. Werrin's Facebook
4 account was either cancelled or made publicly inaccessible, and Mr. Lewis-Koskinen
5 had shed 18 friends on his Facebook account, including 10 friends that he had in
6 common with Mr. Werrin. *Rosvall Declaration*, ¶¶ 18-19.

7 These facts compel a conclusion that Mr. Lewis-Koskinen and Mr. Werrin have engaged in a
8 scheme to obfuscate the true source of the positions in the Werrin Comments. Meanwhile, Mr.
9 Lewis-Koskinen was directly involved in crafting the Communications Division study that was
10 included in the Order Instituting Rulemaking ("OIR") and he continues to advise the ALJ in
11 connection with this proceeding. *Rosvall Declaration*, ¶ 11.

12 Notwithstanding any additional discipline that may be appropriate for Mr. Lewis-
13 Koskinen, he should be removed from any further advisory role in this proceeding, and should be
14 forbidden from working on the issues in this proceeding going forward. This remedy should be
15 effectuated immediately based on the evidence in the Rosvall Declaration, but should not be to the
16 exclusion of further remedies that the Commission may impose in connection with this matter.

17 **III. THE POTENTIAL FOR DEEPER IMPROPRIETY WITHIN THE CARRIER
18 OVERSIGHT AND PROGRAMS BRANCH JUSTIFIES FURTHER PERSONNEL
19 CHANGES TO ENSURE DUE PROCESS IN THE PROCEEDING.**

20 The evidence strongly suggests that Mr. Lewis-Koskinen acted in collusion with Mr.
21 Werrin to fraudulently submit the Werrin Comments in this proceeding. The evidence does not
22 clarify Mr. Lewis-Koskinen's motives for engaging in this scheme, nor does it confirm whether he
23 was acting alone or in concert with others within the Communications Division. Today, the
24 Independent Small LECs are sending a letter to the Commission asking that a further investigation
25 into this matter be initiated to clarify the extent of the impropriety. While the Commission further
26 investigates this matter, it would be prudent to remove the current advisors from the Carrier
27 Oversight and Programs Branch from any further advisory role in this proceeding.

28 Making a staffing change to the advisory personnel in this proceeding is an important step
in immunizing the Commission from reproach and preserving due process in this proceeding.

1 While there is no direct evidence of involvement from other Communications Division staff in Mr.
2 Lewis-Koskinen's subterfuge, there are many reasons to believe that he did not act alone. Mr.
3 Lewis-Koskinen is a 2006 graduate from the University of Redlands, and has only worked for the
4 Commission for a few years. It is difficult to believe that he would have independently concocted
5 and executed this scheme simply because he believes so strongly in the perspectives in the Werrin
6 Comments. Moreover, just the drafting of the comments must have taken many hours, and the
7 researching of the authorities and other citations in the comments would have taken many more
8 hours, particularly for someone with only a few years of experience and no advanced degree. The
9 difficulty of this task alone makes it likely that he worked with others, and since much of the
10 expertise and interest relative to these issues resides within the Carrier Oversight and Programs
11 Branch, it is likely that he worked on this with some of his colleagues.

12 The Werrin Comments themselves provide a link to the views of the Carrier Oversight and
13 Programs Branch. The Independent Small LECs have become familiar with the perspectives of
14 the Carrier Oversight and Programs Branch regarding the funding and ratemaking issues in this
15 proceeding, and those perspectives are represented to a large extent in the Werrin Comments.
16 *Rosvall Declaration*, ¶ 22. Moreover, the Werrin Comments make a point of expressing a lack of
17 faith in the efforts of TURN and DRA to represent consumers, stating that "[t]hese other advocates
18 disproportionately represent the interests of minorities such as rural and low income customers to
19 the detriment of majority urban ratepayers." *Werrin Opening Comments*, at p. 1. This statement
20 in itself provides a likely motive for the comments: Mr. Lewis-Koskinen was tasked with
21 expressing the views of the Carrier Oversight and Programs Branch to ensure that those views
22 would be on the record to provide the basis for an outcome that DRA and TURN might be
23 unwilling to endorse. Most true public commenters would not be intimately familiar with DRA
24 and TURN, let alone be willing to criticize their positions as not representative of ratepayer
25 interests at the beginning of a proceeding.

26 There are many reasons to believe that Mr. Lewis-Koskinen would not individually draft
27 and submit a set of comments through Mr. Werrin without at least some influence from – or

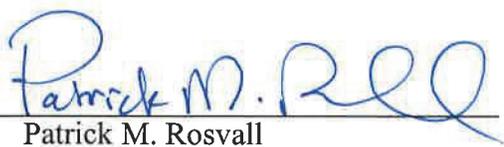
1 collusion with – others within the Commission. At a minimum, Mr. Lewis-Koskinen’s colleagues
2 and superiors must have been aware that he was drafting a substantial set of comments – likely
3 during work hours – addressing issues related to the CHCF-A proceeding. Only a deeper
4 investigation will determine the extent of Communications Division involvement, but a reasonable
5 precaution to prevent further tainting of the record would be to remove all current Carrier
6 Oversight and Programs Branch advisors from advisory positions in connection with this
7 proceeding. Indeed, if additional investigation reveals a broader conspiracy with respect to the
8 Werrin Comments, and yet the Commission failed to act to prevent further injury to interested
9 parties in the proceeding from the current Carrier Oversight and Programs Branch advisors, due
10 process in this proceeding would be further compromised.

11 **IV. CONCLUSION.**

12 The seriousness of the misconduct that has come to light merits a conservative approach
13 from the Commission. The evidence that has been presented plainly justifies removal of Alex
14 Lewis-Koskinen as an advisor to the Commission in connection with this proceeding, but the same
15 evidence warrants removal of all other current advisors from the Carrier Oversight and Programs
16 Branch from similar advisory positions. The Commission has a duty to ensure that this
17 proceeding is conducted in an objective, unbiased manner, and a replacement of these advisors is a
18 reasonable step based on the evidence presented and the clear implications of that evidence.

19 Dated this 8th day of March, 2012.

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