



**FILED**

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

In the Matter of Application of Foresthill Telephone Company (U1009C) dba Sebastian, to Review Intrastate Rates and Charges and Rate of Return for Telephone Service Furnished within the State of California, and Increase Selected Rates.

Application 10-12-012  
(Filed December 22, 2010)

**ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO**

Pursuant to Pub. Util. Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules), this Ruling and Scoping Memo sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding.

**Background**

On December 22, 2010, applicant filed a request for a general rate increase. On January 21, 2011, the Commission's Division of Ratepayer Advocates (DRA) filed a protest. By Ruling dated January 26, 2011, a prehearing conference (PHC) was set for February 9, 2011. The Ruling directed parties to meet before the PHC and address certain items. On February 4, 2011, applicant and DRA filed a Joint PHC Statement. On February 9, 2011, a PHC was held to determine parties, positions, scope, schedule and other procedural matters.

**Category**

Applicant requested this matter be categorized as ratesetting. The Commission preliminarily categorized this matter as ratesetting. (Resolution ALJ 176-3267, dated January 13, 2011.) No party objects. I find that the category

is ratesetting. This ruling may be appealed. Appeals must be filed and served within 10 days. (Rule 7.6.)

### **Issues**

Applicant and DRA agree that this proceeding should address certain issues. The issues to address, including the specific issues to which applicant and DRA agree, are:

1. **Revenue Requirement:** determination of applicant's revenue requirement for test year 2012, including but not limited to:
  - a. revenues
  - b. operating expenses
  - c. depreciation expenses and accelerating cycles
  - d. near term upgrade to internet protocol and broadband platforms
  - e. future network construction and maintenance
  - f. rate base
  - g. capital structure
  - h. rate of return
2. **Rate design:** determination of rates and charges to be paid by applicant's customers.
3. **Supplemental Funding:** appropriate level of supplemental intrastate funding (e.g., California High Cost Fund - A (CHCF-A) funding).
4. **Service Quality**
5. **Other:** other issues to the extent raised by parties and specifically identified as an issue by the Presiding Officer.

### **Need for Hearing**

Applicant stated that a hearing would be required, in particular for the issues of revenue requirement, rate design, and CHCF-A funding. The Commission preliminarily determined that a hearing is necessary. (Resolution ALJ 176-3267, dated January 13, 2011.) DRA agrees. I find that a hearing is necessary. (Rule 7.3.)

## Schedule

Applicant initially proposed a schedule with evidentiary hearing in April, 2011. Applicant and DRA jointly propose a revised schedule with hearing in July, 2011. Parties agreed at the PHC to the feasibility of slightly advancing the schedule, with up to three days set for hearing. The adopted schedule is:

May 27, 2011	DRA/Intervenor proposed testimony served
June 10, 2011	Applicant proposed rebuttal testimony served
June 27-29, 2011	Evidentiary Hearing (State Office Building, 9:00 am, Commission Courtroom, 505 Van Ness Avenue, San Francisco, CA)
July 20, 2011	Opening Brief filed and served (exact date to be set at conclusion of hearing)
August 3, 2011	Reply Brief filed and served (exact date to be set at conclusion of hearing)
August 3, 2011	Projected submission
November 1, 2011	Proposed Decision filed and served
December 2011	Commission Decision
January 1, 2012	New revenue requirement, new rates, new CHCF-A draw in effect

The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management of this proceeding.

Parties should meet at an appropriate time (e.g., after the service of DRA/Intervenor proposed testimony) to consider whether or not some or all issues may be settled.<sup>1</sup> This will help promote the efficient use of party and

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<sup>1</sup> See Article 12 (Rules 12.1 to 12.7) of the Commission's Rules of Practice and Procedure.

Commission resources. Further, parties may contact the Commission's Alternative Dispute Resolution Coordinator or the Presiding Officer if they would like assistance with resources described at the PHC (e.g., facilitator, mediator).

A proposed decision is expected to be filed by November 1, 2011, with a Commission decision by December 2011. This should permit a new CHCF-A draw (if authorized) and new rates effective January 1, 2012. While many items may be raised over the course of the proceeding, the decision will address only those matters necessary to reach a decision. The proceeding will be completed within 18 months of the date this Scoping Memo is filed. (§ 1701.5(a).)

### **Ex Parte Communications**

Ex parte communications are governed by the Public Utilities Code and Commission Rules. In general, ex parte communications are prohibited, with limited exceptions subject to reporting requirements. (See § 1701.3(c); Rules 8.2(c) and 8.3.) Ex parte communications subject to reporting are reported by Notice of Ex Parte Communication filed within three working days of the communication. (Rule 8.3.) At the Commission's request, parties agreed to shorten the time for filing such Notice to within one working day of the communication.<sup>2</sup> (February 9, 2011 PHC, Reporter's Transcript at 4.)

### **Final Oral Argument**

A party in a ratesetting proceeding in which a hearing is held has the right to make Final Oral Argument (FOA) before the Commission, if the FOA is

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<sup>2</sup> Motions for extensions of time may be made orally, by e-mail or by letter to the Administrative Law Judge, subject to certain provisions. (Rule 11.6.)

requested within the time and manner specified in the Scoping Memo or later ruling. (Rule 13.13.) Parties shall use the following procedure to request FOA.

Any party seeking to present FOA shall file and serve a motion at any time that is reasonable, but no later than the last date comments are due to be filed and served on the proposed decision (i.e., comments are due 20 days after the proposed decision is filed). The motion shall state the request, the subject(s) to be addressed, the amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable, and reasonable FOA. If more than one party plans to move for FOA, parties shall use their best efforts to present a joint motion, including a joint recommendation on subjects, procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed within two days of the date of the motion. If a final determination is subsequently made that no hearing is required, Rule 13.13 shall cease to apply, along with a party's right to an FOA.

### **Service List**

The service list is on the Commission's web page. Parties are responsible for ensuring that the correct information is contained on the service list, and notifying the Commission's Process Office and other parties of corrections or ministerial changes. (Rule 1.9(e).) Substantive changes (e.g., to be added or removed as a party) must be made by motion or at hearing. Over the course of the proceeding, parties must use the most current service list each time service is performed.

### **Presiding Officer**

Administrative Law Judge Burton W. Mattson is the Presiding Officer.

**IT IS RULED** that the items addressed in the body of this ruling are adopted. In particular:

1. The category of this proceeding is ratesetting. Appeals, if any, must be filed and served within 10 days.
2. The issues are as stated in the body of this ruling.
3. Hearing is necessary.
4. The schedule stated in the ruling is adopted. The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management of this proceeding. Parties shall meet at least once at an appropriate time to consider whether or not some or all issues may be settled.
5. With limited exceptions that are subject to reporting requirements, ex parte communications are prohibited. (See § 1701.3(c); Rules 8.2(c) and 8.3.) Ex parte communications subject to reporting shall be reported by Notice of Ex Parte Communication filed within one working day of the communication.
6. A party shall follow the procedures stated in this ruling to request Final Oral Argument (FOA), but the right to FOA ceases to exist if there is a subsequent final determination that hearing is not needed.
7. The Presiding Officer is Administrative Law Judge Burton W. Mattson.

Dated March 2, 2011 at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey  
Assigned Commissioner