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**FILED**

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

Joint Application of Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California (U1024C), SureWest Telephone (U1015C), and Verizon California Inc. (U1002C) to Exempt Uniform Regulatory Framework ILECs From General Order 77-M.

Application 11-02-003  
(Filed February 2, 2011)

**ASSIGNED COMMISSIONER'S RULING  
HOLDING PROCEEDING IN ABEYANCE**

**Summary**

This Ruling holds in abeyance Application (A.) 11-02-003, the application of Citizens Telecommunications Company of California, Inc., SureWest Telephone, and Verizon California, Inc. (Joint Applicants) to exempt Uniform Regulatory Framework Incumbent Local Exchange Carriers (URF ILECs) from General Order (GO) 77-M until the Commission evaluates the status of telecommunications competition in California.

**Procedural History**

On February 2, 2011, the Joint Applicants filed an application to exempt URF ILECs from GO 77-M. GO 77-M requires the disclosure of utility executive compensation, and payments to dues, donations, subscriptions and contributions directly or indirectly paid by each utility. On March 10, 2011, The Greenlining Institute and The Utility Reform Network (Joint Protestants) timely filed a

protest. On April 19, 2011, a prehearing conference was held to determine parties, positions, scope, schedule and other procedural matters.

### **Threshold Issue**

In its March 10, 2011 protest to this Application the Joint Protestants acknowledge the issuance of a December 31, 2010 Assigned Commissioner's Ruling by Commissioner John Bohn Adopting An Amended Scoping Memo and Schedule, in Rulemaking (R.) 09-06-019. The Ruling states the Commission's intent to reassess "whether, or to what extent, the level of competition in the telecommunications industry is sufficient to control prices for the four largest telephone companies in the state."<sup>1</sup> In light of this, the Joint Protestants requested that the Commission put this Application on hold pending the outcome of the competitive reassessment.

On January 16, 2011, R.09-06-019 was reassigned to President Michael Peevey. On January 20, 2011, President Peevey issued an Assigned Commissioner Ruling (ACR), ordering that "the schedule for comments in Rulemaking 09-06-019 is deferred pending further notice." The January 20, 2011 Ruling described an intention "to issue a follow-up ACR or alternatively, to present a new Order Instituting Rulemaking (OIR) for Commission consideration."

As a preliminary matter in this proceeding, I and the assigned Administrative Law Judge (ALJ) issued a Ruling and Scoping Memo that, among

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<sup>1</sup> Assigned Commissioner's Ruling Adopting Amended Scoping Memo and Schedule, Rulemaking 09-06-019, December 31, 2010, at 1.

other things, asked the parties to provide comment by June 1, 2011 on the following question:

If the Commission moves forward with a study to assess the level of competition in the telecommunications industry in California, what, if any impact would proceeding with such a study have on the A.11-02-003 proceeding?

### **Parties' Comments to Threshold Question**

The Commission received three sets of comments: 1) the Joint Applicants, 2) the Joint Protestants, and 3) AT&T California (AT&T).

In their comments, the Joint Applicants conclude that a competition study would have no impact on this proceeding, and thus, there is no reason to delay the proceeding. "The information in these [GO 77-M] reports has served no regulatory function as to the URF ILECs since the Commission stopped examining the companies' expenses in the early to mid-1990s."<sup>2</sup> The Joint Applicants argue that the Commission's intent to analyze competition in the telecommunications industry does not mean that the Commission will return to regulating the industry based upon earnings. The Joint Applicants note that none of the consumer groups supporting the competition study have proposed the re-establishment of rate-of-return regulation.

The Joint Protestants urge the Commission to "delay making any additional changes in the regulatory rules for URF carriers until after the competition OIR is completed."<sup>3</sup> Describing the draft OIR as indicating that the

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<sup>2</sup> Joint Applicants Comments on Threshold Issue in Scoping Memo, June 1, 2011, at 2.

<sup>3</sup> Comments of the Greenlining Institute and The Utility Reform Network on Scoping Memo, June 1, 2011, at 2.

Commission will engage in a “reassessment of the status of telecommunications competition in California”, the Joint Protestants anticipate a potential for minor or “perhaps” major changes in URF as a result of the study.

AT&T concludes that a competition study by the Commission “would not have any impact on this proceeding.”<sup>4</sup> AT&T notes that GO 77 is based on the link between expenses and rates, and this type of ratesetting ended years ago. AT&T argues that “it is unrealistic to believe that a competition study would result in a return to the kind of ratesetting process that was abandoned long ago, in which GO 77 may have been useful.”<sup>5</sup>

## **Discussion**

On May 26, 2011, June 9, 2011 and June 23, 2011, the Commission had on its business meeting agendas a proposed new Rulemaking to determine whether the Commission should review the URF regulatory framework given the changes in technology and markets since its inception. The purpose of such a review would be to ensure that regulation in California continues to produce just and reasonable rates. The proposed Rulemaking has been temporarily withdrawn until the Commission can refocus its resources on this effort.

While the Joint Applicants and AT&T would have us believe that such an analysis of California markets would not have any impact on this proceeding, the proposed rulemaking specifically asked whether or not (emphasis added) the developments in telecommunications markets provide evidence that the URF

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<sup>4</sup> Comments of Pacific Bell Telephone Company d/b/a AT&T California on The Threshold Question Set Forth in the Joint Assigned Commissioner and Administrative Law Judge’s Ruling and Scoping Memo, June 1, 2011, at 2.

<sup>5</sup> *Id.* at 2-3.

regulatory program should continue unchanged. This proceeding cannot presume the outcome of such an analysis. We agree with the Joint Protestants that there is a potential (emphasis added) for change. But again, we cannot presume that there will be any change or the extent of that change.

We will hold this proceeding in abeyance until the Commission can refocus its efforts on the analysis of the California telecommunications market. The current briefing schedule is suspended until further notice.

**IT IS RULED** that:

1. Application 11-02-003 will be held in abeyance until the Commission opens its Telecommunications Competition Study.
2. The current briefing schedule is suspended until further notice.

Dated September 15, 2011, at San Francisco, California.

/s/ CATHERINE J.K. SANDOVAL

Catherine J.K. Sandoval  
Assigned Commissioner