BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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Application of Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Kerman Telephone Co. (U 1012 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), Winterhaven Telephone Company (U 1021 C) for Ratemaking Determination Regarding Dissolution of Rural Telephone Bank	A. 07-12-026 (Filed December 20, 2007)

COMMENTS OF HAPPY VALLEY TELEPHONE COMPANY, HORNITOS TELEPHONE COMPANY, AND WINTERHAVEN TELEPHONE COMPANY ON PROPOSED DECISION

Henry Weissmann
Hojoon Hwang
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, Suite 3500
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 687-3702

Email: Henry.Weissmann@mto.com

Attorneys for Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Winterhaven Telephone Company (U 1021 C)

Dated: February 11, 2011

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure ("RPP") of the California Public Utilities Commission ("Commission"), Happy Valley Telephone Company (U 1010 C) ("Happy Valley"), Hornitos Telephone Company (U 1011 C) ("Hornitos"), and Winterhaven Telephone Company (U 1021 C) ("Winterhaven") (collectively, the "TDS Companies") hereby submit these comments on the Proposed Decision ("PD") issued on January 25, 2011.

The PD finds that the TDS Companies did not violate D. 91-09-042 and declines to impose any fines on the TDS Companies with respect to their 2006 High Cost Fund A Advice Letters. PD at 28, COL 3, 4. Likewise, the PD does not impose the 10% interest rate on refunds to the TDS Companies. PD at 29, COL 8. The TDS Companies express their appreciation for, and support, these findings.

The PD also finds that the TDS Companies violated RPP 1.1 by failing to disclose in the Application the amount received in the Rural Telephone Bank ("RTB") stock redemption, and specifically by failing to disclose the amount received in the redemption of the patronage refund shares. PD at 17. On the basis of this finding, the PD would impose a fine of $20,000 on each of the TDS Companies, for a total of $60,000. PD at 30, COL 13.

The TDS Companies respectfully disagree with the PD's finding that they violated RPP 1.1. The Application disclosed the existence of the patronage refund shares. *See* PD at 17. Although the Application did not disclose the dollar amount of those shares, the TDS Companies do not believe this omission rendered the Application misleading, and they certainly did not intend to mislead the Commission. Instead, the omission of further details about the patronage refund shares reflected the Applicants' good faith belief that the proceeds from the redemption of those shares were not subject to sharing with customers under the Commission's Gain On Sale precedent.[1] Although the Commission reached a contrary conclusion in D. 10-06-029, neither that decision nor the PD finds that the Applicants' belief was unreasonable.[2] Moreover, the Applicants were not on notice that the Commission would choose not to apply the Gain On Sale decision in D. 10-06-029, and instead order the refund of the stock redemption proceeds based on the idea that they resulted from loans that were approved for public utility use—an idea the Commission had not previously signaled would be a basis for ordering the return to ratepayers of funds realized in a sale. Additionally, the TDS Companies are unaware of any prior Commission decision that interprets RPP 1.1 to require disclosure of "all relevant and material facts," PD at 19, which under the PD's reasoning would include not just the existence of assets, but also the amount of those assets that the applicants had a good faith basis for believing were not subject to ratemaking. The TDS Companies do not believe that it is appropriate to penalize them for failing to foresee these changes in Commission precedent.

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[1] D. 06-05-041, as modified by D. 06-12-043.
[2] The TDS Companies are seeking judicial review of D. 10-06-029 and reserve all rights to continue to do so.

The TDS Companies understand and affirm the importance of providing adequate information in their dealings with the Commission and are disappointed that the PD finds that the Application did not meet this standard. The TDS Companies are committed to conducting themselves in accordance with the Commission's requirements and believed that they had done so. To the extent the Commission changes those requirements (through a decision in this phase of the proceeding, or otherwise), the TDS Companies will comply fully.

Dated: February 11, 2011

Respectfully submitted,

By: _____
Henry Weissmann

Henry Weissmann
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, Suite 3500
Los Angeles, CA 90071
Telephone: (213) 683-9100
Facsimile: (213) 687-3702

Email: *Henry.Weissmann@mto.com*

Counsel for Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Winterhaven Telephone Company (U 1021 C)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing COMMENTS OF HAPPY VALLEY TELEPHONE COMPANY, HORNITOS TELEPHONE COMPANY, AND WINTERHAVEN TELEPHONE COMPANY ON PROPOSED DECISION on all parties of record in A. 07-12-026 by serving an electronic copy on their email addresses of record and, for those parties without an email address of record, by mailing a properly addressed copy by first-class mail with postage prepaid to each party on the Commission's official service list for this proceeding:

SERVICE LIST -- A.07-12-026
dclark@kermantelephone.com
srt@cpuc.ca.gov
prosvall@cwclaw.com
Joe.Chicoine@ftr.com
Charlie.Born@ftr.com
gblack@cwclaw.com
mschreiber@cwclaw.com
bfs@cpuc.ca.gov
cg2@cpuc.ca.gov
mab@cpuc.ca.gov
nxb@cpuc.ca.gov

This Certificate of Service is executed on February 11, 2011, at Los Angeles, California.

Vivian S. Rodriguez

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