

Decision 10-11-007 November 19, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of The Siskiyou Telephone Company (U1017C) to Review Intrastate Rates and Charges and Rate of Return for Telephone Service Furnished Within the State of California.

Application 09-10-004
(Filed October 1, 2009)

DECISION ADOPTING SETTLEMENT AGREEMENT

We adopt an all-party settlement resolving all issues in this proceeding. The result, compared to present rates, is an overall increase in test year 2011 intrastate revenues of \$713,048 (6.8%) effective January 1, 2011. About 80% of the increase is funded by the California High-Cost Fund-A. The remainder is provided through an increase in local network service rates, consistent with our order on eligibility for continued access to the California High-Cost Fund-A by certain rural telephone companies. A copy of the Settlement Agreement is attached as Appendix A. The proceeding is closed.

1. Background

On October 1, 2009, The Siskiyou Telephone Company (Siskiyou or Applicant) filed a general rate case application, seeking an overall increase in test year 2011 intrastate revenues of \$3,103,339 effective January 1, 2011. Applicant proposed funding the increase via a modification of its California High-Cost Fund-A (CHCF-A) draw, without any modification of its rates. Applicant provided customers with timely public notice of the application.

On November 17, 2009, the Commission held a prehearing conference. On December 4, 2009, the Commission's Division of Ratepayer Advocates (DRA) filed a response identifying potential contested issues. On December 22, 2009, the assigned Commissioner filed a Scoping Memo and Ruling setting forth the issues and schedule.

On March 2, 2010, Applicant served corrected proposed testimony, addressing an error identified by DRA in Applicant's original rate of return calculation. Applicant's revised request is an increase in test year 2011 intrastate revenues of \$2,549,741. On March 26, 2010, Applicant served proposed testimony modifying its recommended rate design to comply with our February 2010 order on eligibility for continued CHCF-A funding by high-cost rural telephone companies. (Decision (D.) 10-02-016.)

DRA engaged in extensive discovery, including written and oral data requests, plus on-site inspections of Applicant's offices and service territory together with interviews of Applicant's personnel. On May 7, 2010, DRA served its proposed direct testimony. On May 21, 2010, Applicant served proposed reply testimony, and DRA served proposed supplemental testimony. On May 26, 2010, Applicant served additional proposed reply testimony, and DRA served corrected testimony on limited issues.

Hearings were scheduled for June 1 through June 4, 2010. On May 20, 25, and 26, 2010, parties participated in duly noticed settlement discussions, in compliance with Rule 12.1 of the Commission's Rules of Practice and Procedure (Rules). In consultation with parties, the Administrative Law Judge (ALJ) granted parties' motions to suspend hearings until June 4, 2010, pending further settlement discussions. The June 4, 2010 hearing was also later suspended based on parties' stated intention to file a settlement agreement.

On June 23, 2010, parties filed a joint motion for adoption of an all-party settlement agreement. On July 1, 2010, the ALJ filed a ruling requesting additional information. On July 19, 2010, parties filed a joint response providing the additional information. On August 17, 2010, the ALJ admitted proposed testimony into evidence based on parties' stipulation for admission of evidence and waiver of cross-examination and objections.

No party raised any objection to the Settlement Agreement, and there is no known opposition. No hearing was held.

2. Summary of Settlement Agreement

Applicant and DRA settled all issues. The Settlement Agreement is contained in Appendix A to this order.¹ Settling parties state that the principal components of the settlement are:

- A reduction in total intrastate test year expenses (not including depreciation) of \$695,974 from the expense amount originally filed by Applicant.
- A reduction in test year net plant additions by approximately \$1.6 million, leading to a reduction in total intrastate company test year rate base from \$45,280,502 to \$44,823,878.
- Adoption of DRA's estimate for materials and supplies for calculation of test year rate base.

¹ The Settlement Agreement refers to three attachments to the Settlement Agreement for test year 2011 results: Attachment A for total company results of operation, Attachment B for intrastate results of operation, and Attachment C for rate design. The actual attachments are Attachment 1 (intrastate), Attachment 2 (total company), and Attachment 3 (rate design). We evaluate and adopt actual Attachment 1 to the Settlement Agreement as the Attachment B referenced in the Settlement Agreement, actual Attachment 2 as the Attachment A referenced in the Settlement Agreement, and actual Attachment 3 as the Attachment C referenced in the Settlement Agreement.

- Reduction in total intrastate test year revenues by \$1,902,234 from Applicant's original showing.
- Rate design as proposed by Applicant in its corrected and updated testimony.
- A 10% intrastate rate of return.
- No stipulated capital structure.
- Acceptance of Applicant's annual certification as an Eligible Telecommunications Carrier (ETC) as adequate notice of plant additions in lieu of individual advice letters.
- Agreement that issues associated with Rural Telephone Bank proceeds will be addressed in Application (A.) 07-12-026.

3. Discussion and Analysis

Commission Rules provide that:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.
(Rule 12.1(d).)

In evaluating settlements, the Commission recognizes a strong California public policy favoring settlements and avoiding litigation.² Settling parties demonstrate here that the Settlement Agreement satisfies all three requirements and should be adopted.

² See Joint Motion for Adoption of All-Party Settlement Agreement at 4, citing *Re Pacific Bell*, 45 CPUC2d 158, 169, D.92-07-076 (July 22, 1992).

3.1. Reasonable in Light of the Whole Record

The Settlement Agreement is reasonable in light of the whole record. For example, the record contains a range in requested and recommended test year 2011 intrastate operating expenses, plant-in-service, rate base, and rate of return:

2011 INTRASTATE RESULTS OF OPERATIONS

LINE NO	ITEM	APPLICANT REQUESTS	DRA RECOMMENDS	SETTLEMENT
1	Operating Expenses	\$6,783,651	\$6,035,551	\$6,052,677
2	Plant-in-Service	\$45,280,502	\$43,048,094	\$44,823,878
3	Rate Base	\$26,498,894	\$23,837,030	\$25,612,814
4	Rate of Return	12.40%	10.00%	10.00%

Parties' testimonies establish a reasonable basis for estimates, requests and recommendations. The Settlement Agreement reflects parties' compromises within the range of parties' testimony. A 10% intrastate rate of return is recommended by DRA, and is consistent with recent Commission decisions.³ The resulting adopted test year 2011 rate increase is \$713,048, which is substantially less than the corrected increase request of \$2,549,741.

The record reflects no disputes with Applicant's proposed rate design. Applicant's proposed rate design complies with our order establishing a threshold basic service rate of \$20.25 per month for high-cost rural telephone companies, such as Siskiyou, to receive CHCF-A support.⁴ (D.10-02-016.)

³ See Resolution Nos. T-16697, T-16707, and T-16711.

⁴ In the Settlement Agreement, Applicant and DRA estimated that Applicant would receive \$4,185,573 in Universal Service Fund (USF) funding for test year 2011. On October 1, 2010, the Commission received 2011 USF funding amount information from the National Exchange Carrier Association, Inc. (NECA) for all the small rural local exchange carriers in California. According to the NECA data, Applicant will receive

Footnote continued on next page

The record demonstrates that Applicant has adequate service quality to support adoption of the Settlement Agreement. General Order (GO) 133-C sets forth telephone service quality standards with which Applicant must conform. Parties state that reporting under GO 133-C has only recently commenced, but that Applicant satisfies each of the service quality standards provided in GO 133-B (the predecessor to GO 133-C). GO 133-B data was the only evidence available at the time parties served their testimony, and demonstrates that Applicant provides reasonable service quality.

No party identifies any element of the Settlement Agreement that is unreasonable in light of the whole record, and we are aware of none.

3.2. Consistent With Law

The Settlement Agreement is consistent with law. For example, the Commission must provide utilities an opportunity to earn a reasonable rate of return.⁵ The Settlement Agreement includes a rate of return and employs a rate design that provide Applicant this opportunity. Further, the Settlement Agreement adopts a basic service rate level that is appropriate for Applicant's receipt of high-cost fund support.

No party identifies any element of the Settlement Agreement that is inconsistent with law, and we are aware of none.

\$4,137,954 in USF funding in 2011. The decreased USF funding amount of \$47,619 should be made up by an equal increase in Siskiyou's 2011 CHCF-A funding amount.

⁵ In support, the Joint Motion for Adoption of All-Party Settlement Agreement at 5 cites *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 109 S.Ct. 609, 102 L.Ed.2d 646 (1989).

3.3. In the Public Interest

Finally, the Settlement Agreement is in the public interest. The Settlement Agreement allows Applicant the opportunity to generate sufficient revenues to maintain a reasonable level of plant investment and service quality. No customer contacted Applicant, DRA, or the Commission in response to Applicant's requested relief, and no customer objected to the requested relief.

Moreover, it is reasonable for DRA to accept Applicant's annual ETC filing as notice of plant additions. DRA had initially proposed that Applicant be required to file an advice letter with the Commission before initiating any project planned as a rate base addition with funding via the CHCF-A. This would, according to DRA, respond to concerns about Applicant's rate base additions by allowing DRA and the public an opportunity to monitor and comment on Applicant's plans to spend ratepayer funds that in turn increase rate base. It would also give the Commission an opportunity to carefully examine and determine whether or not each project should be added to Applicant's rate base. (Exhibit 101 at 7.)

The Settlement Agreement reasonably provides that DRA accept Applicant's annual ETC filing as adequate notice of plant additions. Applicant processes over 100 construction work orders each year, many in response to outside plant emergencies (such as cable destroyed by storm or fire). It would strain the resources of both Applicant and the Commission to process multiple work orders via advice letters. A Tier 1 advice letter, even if comparatively limited, takes Applicant's time and resources to prepare and file, along with time and resources of Commission staff to review. Tier 2 and Tier 3 advice letters take up to 30 days or more to process. On the other hand, all the information Commission staff would expect to see in the proposed advice letters is contained

in Applicant's annual ETC filing (including work order name and number, appropriate exchange area map, narrative description of project purpose, statement of project justification, estimate of project cost). The ETC document provides reasonable notice and opportunity for staff and the public to seek additional information, if necessary, and to bring concerns to the Commission.

Finally, no party or member of the public identifies any element of the Settlement Agreement that is not in the public interest, and we are aware of none.

4. Conclusion

The Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest. The joint motion for adoption of the all-party settlement agreement is granted.

Unless expressly provided otherwise, adoption of a settlement does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding. (Rule 12.5.) Parties do not ask that this Settlement Agreement be precedential, and we do not adopt it on that basis. We recognize that the Settlement Agreement represents parties' compromises of the issues in this proceeding. Accordingly, adoption of parties' Settlement Agreement here does not constitute approval of, or precedent regarding, the estimating methods, assumptions underlying settlement amounts adopted herein, or any other element of the Settlement Agreement in this matter, or in any future proceeding.

5. Categorization and Need for Hearing

This proceeding is categorized as ratesetting with the need for hearing. (See December 22, 2009 Assigned Commissioner's Scoping Memo and Ruling.) No hearing was held, however. The matter is resolved herein based on the

record and Settlement Agreement. No party asks for hearing, and no hearing is necessary. We, therefore, change the determination in the scoping memo regarding the need for hearings.

6. Comments on Proposed Decision

On October 19, 2010, the proposed decision of ALJ Burton W. Mattson in this matter was filed and served on the parties in accordance with Pub. Util. Code § 311 and comments were allowed under Rule 14.3. Comments in support of the Commission adopting the proposed decision were filed on November 8, 2010 by Applicant and DRA. No reply comments were filed.

7. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Burton W. Mattson is the assigned ALJ in this proceeding.

Findings of Fact

1. The Settlement Agreement reflects parties' compromises within the range of requests and recommendations in parties' testimony, and a 10% overall rate of return is consistent with recent Commission decisions.
2. Applicant's proposed rate design complies with our order establishing a threshold basic service rate for high-cost rural telephone companies to be eligible to receive CHCF-A support.
3. Applicant has adequate service quality to support adoption of the Settlement Agreement.
4. The Settlement Agreement includes a rate of return and employs a rate design that provide Applicant the opportunity to earn a reasonable rate of return.

5. The Settlement Agreement allows Applicant the opportunity to generate sufficient revenues to maintain a reasonable level of plant investment and service quality.

6. No customer contacted Applicant, DRA or the Commission to object to the relief requested by Applicant.

7. It is reasonable for DRA to accept Applicant's annual ETC filing as notice of plant additions.

8. The Settlement Agreement is reasonable in light of the whole record and is in the public interest.

Conclusions of Law

1. No hearing is requested by any party; therefore, the determination in the scoping memo should be changed.

2. No hearing is necessary.

3. The Settlement Agreement is consistent with law.

4. The joint motion for adoption of an all-party settlement agreement should be granted.

5. This order should be effective today so that the Settlement Agreement is effective without delay, thereby providing certainty to Applicant, shareholders, ratepayers, and the public.

O R D E R

IT IS ORDERED that:

1. The June 23, 2010 joint motion for adoption of an all-party settlement agreement is granted.

2. The Settlement Agreement contained in Appendix A is adopted, with the decrease in actual Universal Service Fund money offset by an equal increase in money from the California High-Cost Fund-A.

3. Within seven days of the date this order is mailed, The Siskiyou Telephone Company shall file a Tier 1 advice letter with revised tariff schedules that implement the Settlement Agreement in Appendix A. The advice letter, unless suspended by the Director of the Communications Division, shall be effective in one day, and the tariffs shall apply to services rendered on or after January 1, 2011. Within seven days of the date the advice letter is effective, Siskiyou Telephone Company shall notify its customers of the revised tariffs and rates.

4. The preliminary determination regarding the need for hearing is changed from yes to no. Hearings are not necessary.

5. Application 09-10-004 is closed.

This order is effective today.

Dated November 19, 2010, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners