

Decision 11-03-037 March 24, 2011

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

Application of Calaveras Telephone Company (U1004C), Cal-Ore Telephone Co. (U1006C), Ducor Telephone Company (U1007C), Happy Valley Telephone Company (U1010C), Hornitos Telephone Company (U1011C), Kerman Telephone Co. (U1012C), The Ponderosa Telephone Co. (U1014C), Sierra Telephone Company, Inc. (U1016C), The Siskiyou Telephone Company (U1017C), Volcano Telephone Company (U1019C), and Winterhaven Telephone Company (U1021C) for Ratemaking Determination regarding Dissolution of Rural Telephone Bank.

Application 07-12-026  
(Filed December 20, 2007)

**DECISION DENYING PETITION FOR MODIFICATION**

On January 10, 2011, Happy Valley Telephone Company, Hornitos Telephone Company, and Winterhaven Telephone Company petitioned for modification of Decision (D.) 10-06-029. Petitioners sought to defer issuing customer refunds ordered by that decision pending judicial review and stated that the amounts to be refunded were so great that customers would be confused and angry if the court reverses the ordered refunds.<sup>1</sup>

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<sup>1</sup> Petition at 4.

The petition is denied. Seeking judicial review does not constitute good cause for staying a Commission decision, and the petitioners have not demonstrated that customer confusion can only be avoided by staying the Commission 2010 order.

In D.10-06-029, the Commission authorized the Director of the Communications Division to approve deviations from the refund sequence specified in that decision where the refunding carrier has proposed an “equally efficient mechanism” for making the refunds. We clarify that the scope of this authorization is sufficient to enable the Director to authorize such deviations as may be necessary to prevent customer confusion, including extending the refund period.

We also note the petition indicates a proposal to “remit the balance of the ratepayer credit to the [California High Cost Fund A].”<sup>2</sup> As specified in D.10-06-029, refunds must be made to High Cost Fund A only by carriers that received support from the Fund, other carriers, such as petitioners, must make refunds to their customers. Redirecting refunds is not within the scope of the authorization to the Director of the Communications Division.

### **Assignment of Proceeding**

Commissioner Michael R. Peevey is the assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge in this proceeding.

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<sup>2</sup> Petition at 3.

### **Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Petitioners filed and served comments on the proposed decision on March 4, 2011. The comments contended that the Commission has the authority to defer the rate refunds pending judicial review.

The proposed decision has been revised to clarify that the Commission has the authority to defer rate refunds, but that the petitioners have failed to demonstrate good cause to do so.

### **Finding of Fact**

Petitioners have not demonstrated good cause to stay the Commission-order customer refunds in D.10-06-029.

### **Conclusion of Law**

The petition for modification of D.10-06-029 should be denied.

**O R D E R**

Therefore, **IT IS ORDERED** that the Petition of Happy Valley Telephone Company, Hornitos Telephone Company, and Winterhaven Telephone Company for Modification of Decision 10-06-029 is denied, and this proceeding is closed.

This order is effective today.

Dated March 24, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK FERRON

Commissioners