

COMMUNICATIONS/RSK/KOK/DLW/RHG

Decision 11-06-010 June 9, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Cal-Ore Telephone Company (U1006C) for an Order authorizing it to issue notes in an amount not exceeding \$446,600, and to execute a related agreement and supplemental security instruments.

Application 10-11-008
(Filed November 10, 2010)

**DECISION AUTHORIZING CAL-ORE TELEPHONE COMPANY
TO ISSUE DEBT**

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**DECISION AUTHORIZING CAL-ORE TELEPHONE COMPANY
TO ISSUE DEBT**

I. Summary

This decision grants Cal-Ore Telephone Company (Cal-Ore) the authority requested in its Application 10-11-008.

Cal-Ore requests authority, pursuant to §§ 818 and 851 of the Public Utilities Code, to:¹

1. In conjunction with its affiliate Cal-Ore Communications, Inc. (COC), enter into a loan agreement with the United States of America, acting through the Rural Utilities Service (RUS),² for the purpose of borrowing \$446,600 under the Broadband Initiative Program (BIP), as authorized by the American Recovery and Reinvestment Act of 2009 (ARRA);³
2. Use the loan proceeds to finance the construction of a broadband infrastructure project to serve end users in north central Siskiyou County, California;
3. Execute a Loan/Grant Security Agreement and Promissory Note in conjunction with the loan; and
4. Assign the proceeds of the loan and a \$1,339,800 BIP grant from RUS and the property constructed therewith to COC.⁴

¹ All statutory references are to the Public Utilities Code unless otherwise indicated.

² RUS is an agency of the United States Department of Agriculture (USDA), charged with providing assistance to public electric, telephone, water, and sewer utilities in rural areas of the United States via public-private partnerships. RUS works closely with two other agencies that are not part of the USDA, the Federal Financing Bank (FFB) and the Rural Telephone Bank (RTB). These banks provide the funds for many of the loan programs administered by the RUS.

³ ARRA which is commonly referred to as the Stimulus or Recovery Act, is an economic stimulus package enacted by the 111th United States Congress in February 2009. BIP is administered by RUS and created pursuant to the Recovery Act.

⁴ In conjunction with the \$446,600 loan, RUS is providing Cal-Ore and its affiliate COC a BIP grant in the amount of \$1,339,800 also to construct the broadband infrastructure project. Cal-Ore anticipates that it and COC will not need any additional funds to complete the project.

II. Background

Cal-Ore is a California corporation operating as a public utility telephone company under the jurisdiction of the Commission. Cal-Ore is owned 100% by the California-Oregon Telecommunications Company, a California corporation, which is owned 100% by Cal-Ore Acquisition. Cal-Ore Acquisition is owned 100% by LICT Corporation. COC, a California corporation, is also owned 100% by California-Oregon Telecommunications Company and is the internet service provider within Cal-Ore's service area.

Cal-Ore is the incumbent local exchange carrier furnishing telecommunications services in its Dorris, Macdoel, Tulelake, and Newell exchanges located in portions of Modoc and Siskiyou Counties, California. Cal-Ore's property is comprised of wire, cable, land, easements, central office equipment, buildings, and other pertinent equipment necessary for the rendition of telephone service.

Cal-Ore currently provides voice, digital subscriber line (DSL), and long distance services. Cal-Ore has approximately 130 miles of fiber and 500 route miles of copper. Cal-Ore asserts that it uses two Nortel DMS-10's for switching that will be converted to a MetaSwitch in year 2011. Cal-Ore states that it can reach approximately 75% of its customers with digital subscriber line (DSL) service over its telephone lines and has over 800 DSL subscribers.

A. Financial Information

In its unaudited Income Statement for the three months ending March 31, 2010, shown as Exhibit B in Application (A.) 10-11-008 (Application), and information provided by Cal-Ore on January 3, 2011, Cal-Ore reported that it generated total operating revenues of \$1,926,056 and a net income of \$675,117. Cal-Ore's unaudited Balance Sheet, shown as part of Exhibit B, is summarized in the following table.

Table 1
Unaudited Balance Sheet
For the three months ending March 31, 2010

<u>Assets</u>	<u>Amount</u>
Current Assets	\$ 4,446,453
Non-Current Assets	7,794,928
Net Property, Plant, and Equipment	<u>8,022,587</u>
Total Assets	<u>\$20,263,968</u>
<u>Liabilities & Stockholder's Equity</u>	
Current Liabilities	\$ 4,990,029
Long Term Debt ⁵	941,552
Deferred Income Taxes	400,185
Common Stock	47,800
Other Capital	2,310,800
Current Period Net Income/Loss	675,117
Prior Year Retained Earnings	<u>10,898,485</u>
Total Liabilities & Equity	<u>\$20,263,968</u>

B. Financing Request

In its Application, Cal-Ore seeks authorization to enter into a loan, in conjunction with its affiliate COC, in the amount of \$446,600 with RUS under the BIP. RUS is also granting Cal-Ore and COC (collectively Awardees) a grant in the amount of \$1,339,800 under the BIP. Both the loan and the grant will solely be used solely to finance the broadband infrastructure project (Project) which was approved by RUS.⁶

Cal-Ore previously secured several borrowings from the United States of America, acting through the RUS and the RTB. According to Cal-Ore, its credit standing with RUS was a significant factor in the Awardees receiving the broadband funds.

⁵ Cal-Ore's long-term debt is a liability resulting from Decision 10-06-029, in which the Commission required Cal-Ore to refund monies to ratepayers derived from the sale of Rural Telephone Bank stock.

⁶ The Project is as specifically described in the Awardees' Broadband Infrastructure Application.

RUS requires Awardees to execute a Loan/Grant Security Agreement and a Promissory Note (Agreement) in conjunction with the loan and the grant. RUS loans bear interest at the Treasury rate for comparable loans with comparable maturities. Interest will accrue from the first advance of funds and interest payments will be due and payable on the last day of the month following the month of the advance. The principal payments will begin one year after the date of the first advance. The direct cost-of-money loan will bear interest at the rate applicable to each advance of loan funds based on the average yield on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance.

To secure the payment of the RUS loan, Cal-Ore requests authority to pledge and grant to the RUS a security interest in and to all its property. RUS requires that the BIP funds totaling \$1,786,400, the \$446,600 loan and the \$1,339,800 grant, be secured by the assets of both the Awardees. As of March 31, 2010, Cal-Ore had net property, plant and equipment in the amount of \$8,022,587. According to the information provided by Cal-Ore on January 17, 2011, as of November 30, 2010, COC has net property, plant and equipment of \$841,557.

The Agreement, as shown in Exhibit E of the Application, provides that Awardees will maintain and preserve the lien superior to all other liens affecting the collateral, and will forever warrant and defend the title to the collateral against any and all claims and demands whatsoever.

C. Current Financing Authority

Cal-Ore's most recent long-term secured borrowings from the RUS are indicated herein.

In Decision (D.) 02-06-040, dated June 27, 2002, the Commission authorized Cal-Ore to enter into a secured loan agreement with the RUS for \$4,239,000 and with the RTB for \$2,472,750, for a combined total of \$6,711,750, to finance:

1. the additions and improvements to plant to serve approximately 432 new subscribers;
2. the construction of two new fiber routes from the Macdoel and Dorris central offices to points of interconnection with other local exchange carriers;
3. the replacement of buried copper plant in the Dorris and Macdoel exchanges;
4. the addition of line extensions; and
5. the addition of fiber termination equipment in the Dorris and Macdoel central offices.

Both loans were paid off in 2005 when LICT Corporation acquired Cal-Ore.

In D. 87-06-023, dated June 15, 1987, the Commission authorized Cal-Ore to enter into a secured loan agreement with RUS for \$875,700, to finance improvements and additions to plant. This loan was also paid off in 2005 when LICT Corporation acquired Cal-Ore.

As of March 31, 2010, Cal-Ore had no outstanding loan balances with RUS or RTB. Cal-Ore does not have any existing and unused debt authority from the Commission.

Cal-Ore does not have any long-term debt, except for a liability resulting from D.10-06-029, in the amount of \$941,552. In D.10-06-029, dated June 24, 2010, the Commission determined the appropriate ratemaking treatment for RTB stock redemption proceeds that specific telephone companies received as a result of the dissolution of RTB. Several local exchange carriers obtained substantial loans from RTB prior to its dissolution in 2006, and from its successor entities, the RUS and the FFB. The RTB loan regulations required each borrower to purchase stock in RTB with 5% of the proceeds of each loan. Cal-Ore purchased \$159,450 of

class B RTB stock with its loan proceeds. According to D.10-06-029, Cal-Ore received \$1,470,151 from the RTB redemption funds.

The Commission found in D.10-06-029 that 11 telephone companies, including Cal-Ore, received \$31,299,810.13 from the RTB stock dividends and redemption.

D.10-06-029 ordered the telephone companies, including Cal-Ore, to effectuate a ratepayer credit reflecting the “jurisdictionally separated intrastate portion” of the RTB stock redemption funds received, plus interest on those RTB stock funds and the amounts calculated at the 90-day commercial paper rate. The Commission ordered telephone companies who drew funds from the California High Cost Fund A (CHCF-A), to issue a credit to the CHCF-A and ordered those utilities to file an advice letter to effectuate the credit.

On September 22, 2010, Cal-Ore filed Tier 3 Advice Letter (AL) 333 to establish the credit. The total amount that Cal-Ore proposes to credit to ratepayers through a series of payments to the CHCF-A is \$949,655.72. As of March 28, 2011, AL 333 is active and has not been processed.

D. Broadband Service Plans

Cal-Ore wants to improve its facilities and through COC to provide wireless broadband services and Voice over Internet Protocol (VoIP) services to a predominantly unserved rural area in Northern California. The Project requires the building and managing of a last-mile-wireless broadband facility to serve end users. Cal-Ore states that the Project will provide an entry level wireless bandwidth speed of up to 1 megabit per second (Mbps) down and 512 kilobit per second (Kbps) up, with a maximum speed of 15 Mbps down and 5 Mbps up.

The rural area that the Project will serve lies within the more general communities of Weed, Edgewood, Lake Shastina, Grenada, Gazelle, Montague, and Yreka. Cal-Ore estimates that there are over 2,000 households, classified as

operating farms or ranches and approximately 365 businesses that are predominantly farms, ranches, and other agricultural-related entities.

Cal-Ore claims that the Project will provide enhanced backhaul capacity⁷ to neighboring blocks that it currently serves, as well as additional coverage to underserved census blocks.⁸ The increase in backhaul capacity will allow existing regular telephone customers to utilize a higher capacity facility at a lower cost. Cal-Ore asserts that this will provide long-term economic and social benefits to the communities and that the availability of lower cost bandwidth may also assist current or future competitors in providing more affordable, higher speed broadband service to the various communities.

On January 7, 2011, Cal-Ore provided information claiming that the Project will provide ancillary benefits to its current telephone service and provide direct benefits to Cal-Ore's ratepayers in the form of both increased revenues and decreased costs. Cal-Ore states that it will provide COC bandwidth, transport, and backhaul services and will charge COC for these services. Cal-Ore asserts that the revenue from these services will reduce the pressure to raise local rates on existing ratepayers.

In its data response, dated January 21, 2011, Cal-Ore explained that the services to be provided to COC will be priced based on the current National

⁷ According to Cal-Ore, backhaul pertains to getting customer data to the internet backbone. The Internet backbone refers to the principal data routes between large, strategically interconnected networks and core routers in the Internet. This superfast network spanning the world from one major metropolitan area to another is provided by a handful of national Internet Backbone Providers (IBP).

⁸ According to Cal-Ore, the underserved census blocks will be provided voice service as traditional or regular telephone service. This includes local number dialing, enhanced 911, and directory service. These services will be provided because of the interconnection facility with COC and the interconnect agreement with AT&T, who is the incumbent local exchange carrier.

Exchange Carrier Association (NECA) tariff.⁹ Cal-Ore asserts that the revenue will be booked into regulated revenue, which will be used to offset regulated expenses. Furthermore, as COC begins to offer voice services, the Project will generate additional revenues for Cal-Ore, as it will be able to leverage its existing network and charge COC for switching and related telephony services.

In its January 21, 2011 data response, Cal-Ore clarified that the facility that will be used for backhaul and transport is existing plant that is owned by Cal-Ore. COC will only own the facilities up to the point of interconnection with Cal-Ore.

Cal-Ore, which will sell bandwidth or network access by providing direct backbone access to the Internet and access to its network access points, is a network service provider (NSP). In contrast, COC, which will offer its customer access to the Internet, is an Internet service provider (ISP). As explained in its January 21, 2011 data response, Cal-Ore has existing agreements with three IBP: 360 Networks, LS Networks, and Qwest. Cal-Ore states that as demand increases, the price for bandwidth will continue to decrease.

Cal-Ore indicates that the benefits will accrue directly to Cal-Ore ratepayers without ratepayers having to take on the responsibility of servicing the loan. Cal-Ore asserts that its ratepayers will only take on a minor risk by Cal-Ore pledging its assets as security. The loan and assets will be directly recorded on COC's books and will not have any impact on any upcoming rate case for Cal-Ore. In addition,

⁹ NECA is a not-for-profit association created in 1984 by telecommunications companies to administer the fees that long distance companies pay to access local telephone networks. After the Telecommunication Act of 1996, NECA became indirectly responsible for the Universal Service Fund (USF) programs through its subsidiary corporation, the Universal Service Administrative Company. It also manages the national Telecommunications Relay Service fund, which, though considerably smaller than the USF, is also sustained through long-distance telephone service carrier revenues.

Cal-Ore points out that in exchange for the pledge of its assets, Cal-Ore will realize new revenue streams and cost savings without having to incur any direct out-of-pocket costs.

Furthermore, Cal-Ore notes that the BIP application process was extremely competitive, and RUS was able to select only those projects with the highest likelihood of success. RUS's experience in evaluating rural telecommunications projects ensures that the risk to Cal-Ore's ratepayers is minimal.

E. Construction Budget

Awardees' two-year estimated construction budget for the Project, as shown in Exhibit C in the Application and information provided by Cal-Ore on December 3, 2010, is shown in the following table.

Table 2
Broadband Infrastructure Project
Construction Budget for Years 2010 and 2011

<u>Budget Category & Project Description</u>	<u>2010</u>	<u>2011</u>	<u>Total</u>
Network Access Equipment/Install	\$ -	\$ 63,600	\$ 63,600
Outside Plant/Install Cable & PF Fiber	-	247,800	247,800
Cabinets/Install Equipment Node Upgrades	-	689,000	689,000
Customer Premise Equipment/Install	-	680,000	680,000
Operating Equipment/Purchase	-	-	-
Professional Services/Engineering Serv. Contract	-	80,000	80,000
Testing/Outside Plant	-	-	-
Upfront Costs/Pre-App. Engineering Services	<u>26,000</u>	<u>-</u>	<u>26,000</u>
Total	<u>\$26,000</u>	<u>\$1,760,400</u>	<u>\$1,786,400</u>

F. Cash Requirements Forecast

The Awardees will entirely finance the Project, totaling \$1,786,400, through the BIP loan and grant. On December 3, 2010, Cal-Ore provided information that all transactions pertaining to the Project will reside in and become the property of COC. Cal-Ore will not record or show any effect of the loan on its books. In effect, Cal-Ore will assign the proceeds of the loan and grant, and the property constructed therewith, to COC. However, Cal-Ore will charge COC,

and receive revenue, for bandwidth, backhaul, switching, and related telephone services that Cal-Ore will provide to COC.

G. BIP Grant and Low Cost Loan Award

RUS specified in the Agreement that the loan and the grant should be used solely to finance the Project. Pursuant to the Agreement, Awardees are required, among other things, to:

- a. Construct, build, and complete the Project in accordance with the system design submitted with the RUS approved application.
- b. Maintain and preserve the lien of the Agreement superior to all other liens affecting the collateral.
- c. Begin construction and/or installation activities only after all necessary local, state and federal requirements have been satisfied.
- d. Certify that the Project is being constructed in accordance with a detailed schedule describing the Project build out.
- e. Receive loan/grant advances on a reimbursement basis, or based on unpaid third party invoices for eligible purposes, or contracts approved by RUS, in accordance with the BIP contracting, work order, and advance procedures guide.
- f. Ensure that adequate funding is in place to complete the Project and obtain additional loans or funds for supplemental funding in an amount needed to ensure completion of the project.
- g. Substantially complete the Project within two years.
- h. Establish an accounting system satisfactory to RUS to account for all advanced funds.
- i. Afford RUS, the Office of the Inspector General of USDA, and the Government Accountability Office, through their representative, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and right to inspect the project.
- j. Provide broadband service as described in the RUS approved application commencing from the date the Project is substantially complete for at least as long as the composite economic life of the facilities financed by the grant and the loan.

According to RUS, both Cal-Ore and COC as co-applicants are jointly and severally liable for the award, the note, and the requirements of the legal agreements.

H. Capital Structure

Pursuant to information provided by Cal-Ore on December 3, 2010, all transactions related to the Project, including the debt and equity and the Project itself will reside in and become the property of COC. Accordingly, the RUS loan transaction will not have any effect on Cal-Ore's capital structure, which as of March 31, 2010, consists of Long-term Debt of \$1,341,737 or 8.78% and Stockholder's Equity of \$13,932,202 or 92.22%.¹⁰

III. Notice and Protests

Notice of the filing appeared on the Commission's Daily Calendar of November 12, 2010. Rule 1.9 of the Rules of Practice and Procedure requires that a copy of the document be served on each person whose name is on the official service list for the proceeding. On November 10, 2010, Cal-Ore served its Application on the service list attached to the Application. Cal-Ore claims that there have been no customers or other interested parties that have expressed interest in receiving copies of any application that Cal-Ore files with the Commission.

Cal-Ore has met the Commission's notice and service requirements. Rule 3.2 of the Rules of Practice and Procedure requires applicants for authority to increase rates to notify certain State, County and City agencies of the fact and publish in a newspaper of general circulation the proposed rate increases. This

¹⁰ Cal-Ore's long term debt of \$1,341,737 consists of Long Term Debt of \$941,552 and Deferred Income Taxes of \$400,185. Cal-Ore's Stockholder's Equity consists of Common Stock of \$47,800, Other Capital of \$2,310,800, Current Period Net Income of \$675,117, and Retained Earnings of \$10,898,485.

financing Application does not increase any rates or charges nor does it reduce or cut any services.

No protests were received and no person filed to become a party to this proceeding.

IV. Discussion

According to Cal-Ore, the broadband service will be transported over Cal-Ore's telephone lines. In conjunction with its affiliate COC, the Project will provide (1) wireless broadband to unserved communities, (2) enhanced backhaul capacity to neighboring blocks, (3) coverage to underserved census blocks, (4) long-term economic and social benefits to certain rural communities, and (5) direct benefits to Cal-Ore's ratepayers.

Although Cal-Ore did not receive any grant award for the Project under the California Advances Services Fund (CASF), we note that § 281 encourages the deployment of high-quality advanced communications services to all Californians to promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies. In Resolution (Res.) T-17143, dated June 12, 2008, the Commission approved the CASF application requirements and scoring criteria for awarding CASF funds for broadband projects. The Commission noted therein that by providing broadband service to unserved areas, subscribers will have additional telephone service choices through VoIP providers. The Commission indicated that the broadband projects will serve the Commission's goal of increasing phone service choices to consumers, consistent with federal and state laws and policies.

The Awardees' intention to provide broadband services in unserved areas complement the objectives stated in § 281 and Res. T-17143. RUS having explicitly determined Cal-Ore's proposed use of the loan and grant proceeds acceptable, it is our responsibility in this instance to consider whether to approve Cal-Ore's

request to use public utility assets to secure loan proceeds to be expended by an unregulated affiliate (COC). As required by public interest and similar to the Commission's logic in Res. T-17143, the Commission has some discretion to ensure continued public benefits in relation to broadband projects. Therefore, we find it reasonable to authorize Cal-Ore to avail itself of the low-cost RUS loan and receive the BIP grant in order for wireless broadband to be provided in the unserved rural communities in Cal-Ore's service area. However, we do not make a finding in this Decision on the reasonableness of Cal-Ore's proposed construction program.

Cal-Ore's projected cash requirements indicate that no funds from its treasury or income will be used for the Project. Cal-Ore's requested financing authority and the BIP grant will fund the entire Project. Nevertheless, we do not address the reasonableness of Cal-Ore's cost of money resulting from the impact of the financing activity.

As mentioned earlier, Cal-Ore stated that the Project and the proposed debt will become the property of COC and that all transactions will be recorded on COC's books. This financing transaction will not affect the capital structure of Cal-Ore.

Section 817 provides that a public utility may issue stocks and bonds, notes, and other evidences of indebtedness payable at periods of more than 12 months after the date thereof, for certain purposes, and no others. Even though the debt will eventually be booked by and will primarily be the liability of COC, we must determine how this will affect Cal-Ore's liability and property. As a co-applicant, Cal-Ore is equally liable for the debt. Although Cal-Ore will assign the proceeds of the loan and grant, and the property constructed therewith, to COC, if COC defaults on the loan payments, Cal-Ore may have to advance the loan payments on behalf of COC.

In order to evaluate the appropriateness of the assignment of the loan, grant, and property, and the ongoing affiliate transactions related to the provision of the broadband service, the Division of Water & Audits' Utility Audit, Finance and Compliance Branch (UAFCB) should have access to COC's books and records to facilitate the Commission's obligations to regulate. By letter dated January 25, 2011, Cal-Ore confirmed that its parent company, California-Oregon Telecommunications Company, which maintains the books and records of COC, has agreed to provide UAFCB, upon request, COC's records pertaining to the assignment of the debt and property to COC, and related affiliate transactions information.

Section 851 requires Commission authorization before a utility may "lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its... plant, system or other property necessary or useful in the performance of its duties to the public..." Section 851 permits the encumbrance of utility assets when such encumbrance serves to secure the authorized debt.

Cal-Ore asserts that the ancillary benefits to ratepayers will substantially offset the increased risks to ratepayers from the pledge of the utility's assets. In addition, California-Oregon Telecommunications Company has provided us with access to review and evaluate COC's books and records with respect to its transactions, so we will have the ability to determine whether Cal-Ore's transactions with COC are appropriate. We find that granting Cal-Ore the authority to encumber its assets in conjunction with entering into the loan and grant agreement is not adverse to the public interest.

According to the terms of the Agreement, RUS will maintain a security interest in all of the assets of Cal-Ore until all indebtedness is paid in full. Cal-Ore requested RUS that RUS modify the Agreement to release the encumbrance of Cal-Ore's assets once the Project is completed and the debt and plant have

been assigned to COC. As explained in its January 21, 2011 data response, Cal-Ore stated that RUS declined to address Cal-Ore's request at this time due to the ARRA stimulus program workload. RUS suggested that Cal-Ore make an official modification request after the Project is completed.

In D.10-12-045, dated December 12, 2010, the Commission granted Calaveras Telephone Company (CTC) debt authority to participate in the BIP. In that proceeding, CTC was able to secure RUS' confirmation that if CTC goes to another lender for future financing requirements, RUS will be willing to share a first lien position on a *pari passu* basis with another lender. Cal-Ore should pursue its request for the release of the encumbrance of Cal-Ore's assets. In the event that RUS declines to release the encumbrance of Cal-Ore's facilities once the broadband plant is assigned to COC, Cal-Ore should pursue getting a commitment from RUS similar to that granted to CTC.

Section 818 states that no public utility may issue notes or other evidences of indebtedness payable at periods of more than 12 months unless, in addition to the other requirements of law, it shall first have secured from the Commission an order authorizing the issue and stating the amount thereof and the purposes to which the issue or the proceeds thereof are to be applied. Section 818 requires the Commission, in issuing such as an order, to find that the money, property, or labor to be procured or paid for with the proceeds of the debt is reasonably required for the purposes specified in the order and, unless expressly permitted in an order authorizing debt, that those purposes are not, in whole or in part, reasonably chargeable to expenses or to income.

As set forth above, the RUS loan would be for the purpose of constructing broadband facilities. Cal-Ore's proposed borrowing and the money, property, or labor to be procured or paid for with the proceeds of the debt authorized by this Decision is reasonably required for the BIP described in Table 2 of this Decision,

and the construction is not reasonably chargeable to income. While constructing these facilities is not an approved purpose under § 817, the reduced costs and increased revenue from these improvements will benefit customers over many years, and approving Cal-Ore's requests is consistent with the goals stated in § 281.

Therefore, we will authorize Cal-Ore to (1) obtain the RUS loan in the amount of \$446,600, (2) assign the proceeds of the loan and grant, and the property constructed therewith, to COC, and (3) encumber its assets in connection with the debt.

The key factors that we considered in our disposition of Cal-Ore's request for debt authority in this proceeding follow:

1. Cal-Ore's intention to provide broadband services through COC, in unserved and underserved areas in California is appropriate.
2. The BIP serves Commission's goal to increase phone service choices to consumers, consistent with federal and state laws and policies.
3. While broadband is regulated by the federal authorities, the Commission retains discretion to ensure continued public benefits.
4. The condition imposed by RUS that Cal-Ore obtain authorizations, certificates, and approvals from all state, federal and other public authorities and regulatory bodies for the grant and the loan is appropriate.
5. The other RUS conditions being imposed on Cal-Ore in conjunction with the Project are appropriate.
6. RUS' requirement that Cal-Ore grant RUS a security interest in and to all of Cal-Ore's property to secure the loan and the grant combination is appropriate, subject to the conditions and reservations set forth in the Discussion section of this Decision.

Consistent with § 824, Cal-Ore should maintain records to (i) identify the specific long-term debt issued pursuant to this Decision, and (ii) demonstrate that the proceeds from such debt were only used for the purposes specified herein. Cal-Ore must keep and maintain copies of the Agreement and related

loan documents and must file with UAFCB a copy of the documents within 15 days of execution. In order to formalize the assignment to COC of the debt, property, and related affiliate transactions, Cal-Ore must file, in accordance with General Order 96-B, within 60 days from the date of completion of the Project, a Tier 2 advice letter that reports the assignment.

As confirmed by Cal-Ore, California-Oregon Telecommunications Company will provide UAFCB the records of COC pertaining to the assignment of the debt and property, and related affiliate transactions information, within 15 days of a request from UAFCB.

V. Competitive Bidding Rule

Under the provisions of Res. F-616, dated October 1, 1986, Cal-Ore's proposed issuance of debt is exempt from the Commission's Competitive Bidding Rule because the principal amount does not exceed \$20,000,000.

VI. Reporting Requirement

General Order 24-B requires utilities to submit a monthly report to the Commission that contains, among other things: (i) the amount of debt and equity securities issued by the utility during the prior month; (ii) the total amount of debt and equity securities outstanding at the end of the prior month; (iii) the purposes for which the utility expended the proceeds realized from the issuance of debt and equity securities during the prior month; and (iv) a monthly statement of the separate bank account that the utility is required to maintain for all receipts and disbursements of money obtained from the issuance of debt and equity securities. On or before the 25th day of each month, Cal-Ore must file these reports with UAFCB.

VII. Fees

Whenever the Commission authorizes a utility to issue debt, the Commission is required to charge and collect a fee in accordance with § 1904(b).

The fee for this financing authority as required by § 1904(b) is \$893.¹¹ Cal-Ore must issue the check payable to the California Public Utilities Commission and remit the payment to the Commission's Fiscal Office.

VIII. Category and Need for Hearings

In Res. ALJ 176-3264, dated November 19, 2010, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. We confirm the preliminary determinations made in Res. ALJ 176-3264.

IX. Assignment of Proceeding

Rami S. Kahlon is the Examiner in this proceeding.

Findings of Fact

1. Cal-Ore, a California corporation, is a public utility telephone company subject to the jurisdiction of this Commission.
2. Cal-Ore is the incumbent local exchange carrier in four exchanges located in portions of Modoc and Siskiyou Counties, California.
3. Cal-Ore currently provides voice, DSL, and long distance services.
4. COC, Cal-Ore's affiliate, is the internet service provider within Cal-Ore's service area.
5. Cal-Ore and its affiliate plan to improve their facilities.
6. Cal-Ore, through its affiliate COC, wants to provide wireless broadband and VoIP services to a predominantly unserved rural area in northern California.
7. Cal-Ore owns the facility that will be used for backhaul, and transport. Cal-Ore will own most of the facilities to interconnect COC.

¹¹ The fee is assessed on \$446,600 of authorized borrowing as follows: \$2 times (\$446,600/\$1,000) equals \$893.

8. The Project may provide ancillary benefits to Cal-Ore's telephone service and customers.

9. Cal-Ore will charge COC for bandwidth, transport, backhaul, switching, and related telephone services.

10. Both the grant and the loan were awarded to Cal-Ore and COC pursuant to the BIP.

11. On December 3, 2010, Cal-Ore provided information that all transactions pertaining to the Project will be recorded in the books of COC. With the exception of charging for and receiving revenue from COC for the bandwidth, transport, backhaul, switching and related telephone services, Cal-Ore will not record nor show any effect on its books of the Project or the resultant revenue and expenses.

12. Section 281 encourages the deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies.

13. Broadband services are not regulated by the Commission, but the Commission has discretion to ensure continued public benefits from the deployment of broadband services.

14. Cal-Ore does not have any outstanding loans currently with the RUS.

15. Cal-Ore's parent, California Oregon Telecommunications Company, committed to provide access to COC's books and records to facilitate the Commission's regulatory oversight.

16. Section 818 and RUS require this Commission's approval of the RUS loan.

17. The inability to secure approval of the RUS loan could jeopardize the receipt by Cal-Ore of the BIP grant.

18. The construction costs to be funded partly with Cal-Ore's proposed RUS loan are shown in Table 2 of this Decision.

19. RUS requires a security interest in Cal-Ore's assets.

20. RUS imposes conditions to ensure completion of the Project.

21. In Resolution ALJ 176-3264, dated November 19, 2010, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary.

22. Cal-Ore must comply with all environmental permitting requirements applicable to the construction and improvements that it will undertake in conjunction with this proceeding.

23. Res. F-616 specifically exempts debt issues of \$20 million or less from the Commission's Competitive Bidding Rule.

24. General Order 24-B requires utilities to submit a monthly report to the Commission that contains, among other things: (i) the amount of debt and preferred stock issued by the utility during the prior month; (ii) the total amount of debt and equity securities outstanding at the end of the prior month; (iii) the purposes for which the utility expended the proceeds realized from the issuance of debt and equity securities during the prior month; and (iv) a monthly statement of the separate bank account that the utility is required to maintain for all receipts and disbursements of money obtained from the issuance of debt and equity securities.

25. The Commission has routinely required utilities to maintain records to (i) identify the specific long-term debt issued; and (ii) demonstrate that the proceeds from such debt have been used only for authorized purposes.

26. The Commission has routinely required utilities to keep and maintain copies of the debt agreements and within fifteen days of execution provide copies to UAFCB.

27. On November 10, 2010, Cal-Ore served its Application on its service list.

28. Notice of the filing of the Application appeared on the Commission's Daily Calendar on November 12, 2010. No protests have been received.

29. The fee for this financing authority as required by § 1904(b) is \$893.

Conclusions of Law

1. The BIP loan and grant are for facilities for services that are not regulated by this Commission but that may provide ancillary benefits to Cal-Ore's regulated telephone service.

2. The project costs are not reasonably chargeable to Cal-Ore's expenses or income.

3. Section 281 encourages the deployment of high-quality advance communications services in unserved and underserved areas in California to promote economic growth, job creation, and the substantial benefits of advanced information and communications technologies.

4. It is not adverse to the public interest to authorize Cal-Ore to enter into the Agreement with the RUS for the loan and the grant to finance the construction discussed in Table 2.

5. It is not adverse to the public interest to allow Cal-Ore to provide a security interest in and to all of Cal-Ore's property and execute related agreement in conjunction with the loan and the grant.

6. It is not adverse to the public interest to allow Cal-Ore to assign the proceeds of the loan and grant, and the property constructed therewith to Cal-Ore Communications, Inc., its affiliate.

7. The loan authorization herein is not a finding of the reasonableness of Cal-Ore's proposed construction plan or expenditures, any cost allocations between regulated and non-regulated services, or the cost of money, nor does it indicate approval of matters subject to review in general rate case of other proceedings.

8. Cal-Ore should be authorized to execute the Agreement and encumber its property to secure the debt authorized herein so long as the debt is to be used solely for the Project specifically described in the RUS approved application.

9. Cal-Ore should file a Tier 2 advice letter before it assigns the loan, the grant and the property to COC.

10. Cal-Ore should follow-up with the RUS its request for modification of the security interest or secure a resolution of the matter for purposes of future debt requirements.

11. Cal-Ore's proposed loan is exempt from the Commission's Competitive Bidding Rule.

12. Consistent with § 824, Cal-Ore should maintain records to (i) identify the specific long-term debt issued pursuant to this order, and (ii) demonstrate that the proceeds from such debt have been used only for the purposes authorized herein.

13. Cal-Ore should provide the Commission with the monthly reports required by General Order 24-B.

14. For purposes of this proceeding, Cal-Ore's parent company California-Oregon Telecommunications Company should provide the Commission access to COC's books and records to facilitate the Commission's regulatory oversight.

15. A public hearing is not necessary.

16. In order for Cal-Ore to obtain the federal funding, today's order should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. On or after the effective date of this decision, Cal-Ore Telephone Company is authorized to:

- a) In conjunction with its affiliate, Cal-Ore Communications, Inc., enter into a loan agreement with the United States of America, acting through the Rural Utilities Service for the purpose of borrowing \$446,600 under the Broadband Initiative Program, as authorized by the American Recovery and Reinvestment Act of 2009, to fund the construction of a broadband infrastructure project in north central Siskiyou County, California;
- b) Execute and deliver the Loan/Grant and Security Agreement and all related documents required for the completion of the loan;
- c) Encumber its assets in connection with the loan; and
- d) Assign the proceeds of the loan and grant, and the property constructed therewith to Cal-Ore Communications, Inc.

2. Cal-Ore Telephone Company must notify the Commission's Utility Audit, Finance and Compliance Branch in writing within 15 days of completion of the broadband infrastructure project.

3. Cal-Ore Telephone Company's loan authorized herein is exempt from the Commission's Competitive Bidding Rule.

4. Cal-Ore Telephone Company must maintain records to (i) identify the specific long-term debt issued pursuant to this decision, and (ii) demonstrate that the proceeds from such debt have been used only for the purposes authorized by this decision.

5. Cal-Ore Telephone Company must keep and maintain copies of the Loan/Grant and Security Agreement and all related documents and must file

with the Division of Water and Audits' Utility Audit, Finance and Compliance Branch a copy of the documents within 15 days of execution.

6. Cal-Ore Telephone Company must file, in accordance with General Order No. 96-B, within 60 days from the date of completion of the construction of the broadband infrastructure project, a Tier 2 advice letter which indicates the assignment of the loan, assets, and affiliate transactions to Cal-Ore Communications, Inc.

7. California-Oregon Telecommunications Company must provide the Division of Water and Audits' Utility Audit, Finance and Compliance Branch access to Cal-Ore Communications, Inc.'s books and records pertaining to the debt authorized in this Decision and its affiliate transactions with Cal-Ore Telephone Company within 15 days of a request. This commitment remains in effect in the event of any changes in ownership of any of the involved companies.

8. California-Oregon Telephone Company must renew its request to the Rural Utilities Service for modification of the security interest in its assets, and must notify the Division of Water and Audit's Utility Audit, Finance and Compliance Branch within 15 days of the final disposition of the matter.

9. On or before the 25th day of each month, Cal-Ore Telephone Company must file with the Division of Water and Audit's Utility Audit, Finance & Compliance Branch the reports required by General Order 24-B. When the full amount of the loan has been received and reported, and the system improvements completed and all the capital expenditures reported, the General Order 24-B reporting requirement terminates.

10. The authority granted by this decision becomes effective when Cal-Ore Telephone Company pays \$893 as required by Public Utilities Code § 1904(b). Cal-Ore Telephone Company must issue the check payable to the California

Public Utilities Commission and remit the payment to the Commission's Fiscal Office.

11. Application 10-11-008 is closed.

This order is effective today.

Dated June 9, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners