

Decision 11-12-057

December 15, 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)

**ORDER GRANTING REHEARING
OF DECISION (D.) 11-03-030**

In Decision (D.) 11-03-030 (or “Decision”), issued on March 14, 2011, the Commission imposed penalties on eleven small rural local exchange carriers (“LECs”) ranging from \$15,000-\$20,000 each for violating Rule 1 of the Commission’s Rules of Practice and Procedure. (D.11-03-030, pp. 2, 17-22.) The Commission imposed an additional penalty of \$20,000 on eight of these eleven LECs for violating the California High Cost Fund A (“CHCF-A”) rules. (D.11-03-030, pp. 2, 10-17.) The Commission further imposed a 10% interest rate on all refunds owed to CHCF-A by eight of the eleven LECs. (D.11-03-030, pp. 23-25.) The penalties and interest imposed on the LECs are based on the LECs’ failure to disclose receipt of more than \$31 million in stock redemption proceeds from the dissolution of the Rural Telephone Bank (“RTB”) in 2006. (D.11-03-030, pp. 2-3.) The LECs’ initial application filed with the Commission in 2007 sought Commission authorization to credit a mere \$3,037 of the stock redemption

proceeds to ratepayers, without disclosing the full and true amounts received by the LECs from the RTB dissolution.

In D.10-06-029,¹ the Commission found that virtually all of the RTB stock redemption proceeds (with the exception of a small amount of stock purchased privately with shareholder funds) should be refunded to ratepayers. On July 5, 2011, in three separate opinions, the California Court of Appeal, Fifth Appellate District, annulled D.10-06-029. (*The Ponderosa Telephone Co. v. Public Utilities Commission of the State of California* (2011) 197 Cal.App.4th 48; *Calaveras Telephone Company, et al. v. Public Utilities Commission of the State of California* (Court of Appeal Case No. F061306); *Happy Valley Telephone Company, et al. v. Public Utilities Commission of the State of California* (Court of Appeal Case No. F061259).)² The Court remanded the cases back to the Commission for further proceedings consistent with the Court's analysis of the legal challenges to D.10-06-029.

In this Order, we grant the application for rehearing of D.11-03-030.³ We do so in light of the remand by the California Court of Appeal. We have determined that, from both a practical and resources viewpoint, the issues raised in the application for rehearing of D.11-03-030 should be revisited in conjunction with the remand of D.10-06-029 from the Court of Appeal in the above-referenced opinions.

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¹ D.10-10-036 modified D.10-06-029, and denied rehearing of this decision.

² The latter two decisions were not certified for publication.

³ The Rehearing Applicants include: Calaveras Telephone Company; Cal-Ore Telephone Co.; Ducor Telephone Company; Kerman Telephone Company; The Ponderosa Telephone Co.; Sierra Telephone Company, Inc.; The Siskiyou Telephone Company; and Volcano Telephone Company.

THEREFORE, IT IS ORDERED that:

1. Rehearing of D.11-03-030 is hereby granted.
2. The issues raised in the application for rehearing of D.11-03-030 are to be reviewed in conjunction with the remand of D.10-06-029 from the California Court of Appeal, Fifth Appellate District.

This order is effective today.

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

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners