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08-16-10

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DTS of CA, Inc. for a Certificate of Public Convenience and Necessity to Construct Telecommunications Facilities and to Provide Local Exchange and Interexchange Service to Unserved Territories in California.

Application 09-03-028
(Filed March 24, 2009)

**SCOPING MEMO OF THE ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE**

1. Summary

This scoping memo identifies the issues being considered in this proceeding, sets a schedule for resolution of the proceeding, and determines the category of the proceeding and the need for hearings pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure.¹

2. Procedural Background

On March 24, 2009, DTS of CA, Inc. (DTS), a California corporation, filed an application seeking authority to construct telecommunications facilities and to provide local exchange and interexchange service to unserved territories in California. No protests to the application were filed. Responses to the

¹ All subsequent references to "Rules" or "Rule" are to the Commission's Rules of Practice and Procedure. The full text of the Commission's Rules are available on the Commission's website at "www.cpuc.ca.gov/PUBLISHED/RULES_Prac_Proc/".

application were filed by Verizon California Inc. and the small local exchange carriers collectively.²

On June 26, 2009, an administrative law judge's (ALJ) ruling was issued requesting additional information from DTS on its business model and financial structure. A prehearing conference and brief hearing were held on December 8, 2009, in which the ALJ and Communications Division staff discussed the application with DTS, sought clarification of certain items and asked for additional information regarding the probable impact of its service on the California High Cost Fund-A. The administrative law judge asked DTS to provide a comparison of the estimated DTS draw from the fund with that of other companies. On January 25, 2010, DTS provided the additional information.

3. Assigned Commissioner; Presiding Officer

John A. Bohn is the assigned Commissioner. Pursuant to Public Utilities Code Section 1701.3, ALJ Linda A. Rochester is designated as the presiding officer.

4. Categorization and Need for Hearings

This scoping memo confirms the Commission's preliminary categorization of this proceeding as ratesetting. This ruling, only as to categorization, is appealable under the provisions of Rule 7.6 of the Commission's Rules. This ruling confirms that evidentiary hearings are not necessary.

² Calaveras Telephone Co., Cal-Ore Telephone Co., Ducor Telephone Co., Foresthill Telephone Co., Happy Valley Telephone Co., Hornitos Telephone Co., Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Co., The Siskiyou Telephone Co., Volcano Telephone Co., Winterhaven Telephone Co.

5. Ex Parte Communications

Since this proceeding is categorized as ratesetting, ex parte communications with the assigned Commissioner, other Commissioners, their advisors, and the ALJ are only permitted as described at Public Utilities Code Section 1701.3(c) and Rules 8.2, 8.3 and 8.5.

6. Scope of the Proceeding

The issues for this proceeding include the financial and managerial structure of the proposed business model and its prospects for long-term success. This proceeding will also consider how DTS proposes to fulfill the local exchange carrier basic service obligations which include, among other things, complying with universal service rules, collection and remittance of public program surcharges, 911 emergency services, warm line service, service quality, pricing, reporting and tariff requirements, as well as compliance with the California Environmental Quality Act during facilities construction.

7. Schedule

The proposed schedule for resolution of this proceeding is as follows:

Proposed Decision	November 16, 2010
Comments on Proposed Decision	December 6, 2010
Reply Comments on Proposed Decision	December 13, 2010
Final Decision	December 2010

8. Filing, Service and Service List

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service.

Parties must file certain document as required by the Rules or in response to a ruling by either the Assigned Commissioner or the ALJ. All formally filed documents must be filed with the Commission's Docket Office *and* served on the service list for the proceeding. Article 1 of the Rules contains the Commission's filing requirements. Resolution ALJ-188 sets forth the interim rules for electronic filing, which replaces only the filing requirements, not the service requirements. Parties are encouraged to file electronically whenever possible as it speeds processing of the filing and allows them to be posted on the Commission's website. More information about electronic filing is available at <http://www.cpuc.ca.gov/efile/static.htm>.

Other documents, including prepared testimony, are served on the service list but not filed with the Docket Office. We will follow the electronic service protocols adopted by the Commission in Rule 1.10 of the Commission's Rules of Practice and Procedure for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by United States mail. In this proceeding, I require concurrent e-mail service to all persons on the list for whom an e-mail address is available, including those listed under "information only." Parties are expected to provide paper copies of served documents upon request.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: A.09-03-028 DTS of CA, Inc. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Brief*. Paper format copies, in addition to electronic copies, shall be served on the Assigned Commissioner and the ALJ.

The official service list for this proceeding is available on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors to the Commission's Process Office, the service list, and the ALJ. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's website meets that definition.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866)849-8390 or (415) 703-2074, or (866)836-7825 (TTY-toll-free), or send an email to public.advisor@cpuc.ca.gov.

Therefore, **IT IS RULED** that:

1. This proceeding is categorized as ratesetting.
2. Evidentiary hearings are not necessary.
3. The timetable for the decision in this proceeding is as set forth herein.
4. The Commission's rules governing ex parte communications apply to this proceeding.
5. The issues to be considered are those described in this ruling.
6. Administrative Law Judge Linda A. Rochester is designated as the presiding officer.

Dated August 16, 2010, at San Francisco, California.

/s/ LINDA A. ROCHESTER
Linda A. Rochester
Administrative Law Judge

/s/ JOHN BOHN
John Bohn
Assigned Commissioner

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated August 16, 2010, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.