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Decision 16-09-047 September 29, 2016

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, Establish a New Intrastate Revenue Requirement and Rate Design, and Modify Selected Rates.

Application 15-12-001
(Filed December 1, 2015)

DECISION APPROVING SETTLEMENT

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Appendix A - Settlement Agreement

DECISION APPROVING SETTLEMENT

Summary

This decision approves the all-party settlement agreement between The Siskiyou Telephone Company (Siskiyou) and the Office of Ratepayer Advocates of the California Public Utilities Commission to resolve the application by Siskiyou for a general rate case, for rates to take effect January 1, 2017. The result of the parties' agreement is an increase in the monthly rate for single-line residential local exchange telephone service from \$20.25 to \$24.00 and for single-line business local exchange telephone service from \$22.25 to \$26.00. The parties' agreement further provides for an increase of intrastate revenues for test year 2017 to \$15,524,581 (based on an assumed rate of return of 14.6%; the actual revenue requirement will be determined after the final decision in Application 15-09-005 sets the rate of return). Approximately 50% of the projected intrastate revenue is to be funded by the California High Cost Fund-A.

The Siskiyou Telephone Company further agreed, as a term of the settlement, to establish a separate legal entity and books and accounts for its internet service provider operations and to abide by certain requirements relating to its affiliates. A copy of the Settlement Agreement is attached as Appendix A. The settlement agreement resolves all issues in this proceeding and therefore, this proceeding is closed.

1. Background

On December 1, 2015, The Siskiyou Telephone Company (Siskiyou or Applicant) filed a general rate case (GRC) application, seeking an overall increase in test year 2017 intrastate revenues to \$16,287,664, effective January 1, 2017. In its last rate case, the Commission approved a test year 2011 revenue requirement

of \$10,522,190.¹ Applicant proposed funding the increase via a modification of selected intrastate rates and its California High Cost Fund-A (CHCF-A) draw. Applicant provided customers with timely public notice of the application.

On January 5, 2016, the Commission's Office of Ratepayer Advocates (ORA) filed a response identifying potential contested issues. On February 5, 2016, the Commission held a prehearing conference. On February 11, 2016, the assigned Commissioner and Administrative Law Judge filed a Scoping Memo and Ruling setting forth the issues and schedule.

A Public Participation Hearing was held on April 19, 2016 at Etna, California.

ORA engaged in extensive discovery, including written and oral data requests, e-mail correspondence, conference calls, and an on-site inspection of the Applicant. On May 9, 2016, ORA served its proposed direct testimony.

On May 17, 2016, the assigned Commissioner and Administrative Law Judge filed an Amended Scoping Memo and Ruling clarifying that affiliate transactions and relationships are within the scope of the proceeding.

On June 1, 2016, ORA and Siskiyou held a duly-noticed all-party settlement conference in compliance with Rule 12.1(b) of the Commission's Rules of Practice and Procedure.² On June 16, 2016, the parties filed their *Joint Motion for Adoption of All-Party Settlement Agreement*. Following receipt of that Joint Motion, the Administrative Law Judge, on June 22, 2016, vacated the pending dates for further testimony, evidentiary hearing, and briefing. On June 30, 2016,

¹ Decision (D.) 10-11-007, at Appendix A, Attachment 1.

² California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

the Administrative Law Judge issued a ruling requiring additional information in support of the settlement and the parties filed their joint response to that ruling on July 15, 2016.

No party raised any objection to the Settlement Agreement, and there is no known opposition. Hearings were not held.

2. The Siskiyou Telephone Company

Siskiyou owns and operates a telephone system that provides local exchange telephone service in western and central Siskiyou County, including the communities of Etna, Fort Jones, Happy Camp, and Somes Bar. The system consists mainly of a local exchange telephone network and facilities for its interconnection to the public switched telephone network, including underground and aerial cable and lines, radio equipment, central office equipment, land, buildings, and miscellaneous other equipment.

3. California High Cost Fund-A

The intent of the California High Cost Fund-A (CHCF-A) is to provide a source of supplemental revenues to small Incumbent Local Exchange Carriers whose basic exchange access line service rates would otherwise be increased to levels that would threaten universal service. As stated in D.14-12-084, “[u]niversal, reliable, affordable, service is critical to public safety and benefits the state as a whole.”³ The CHCF-A supports eligible small independent telephone companies in helping rural residents stay connected to essential services to maintain public health and safety.

³ D.14-12-084 at 53.

The CHCF-A program is funded by a surcharge assessed on revenues collected from end users of intrastate telecommunications services throughout the State of California.

This decision approves, as discussed below, Siskiyou's draw from the CHCF-A.

4. Summary of Settlement Agreement

Siskiyou and ORA settled all issues in the scope of this case. The Settlement Agreement is attached as Appendix A to this decision. The settling parties state by their joint motion that the principal components of the settlement are:

1. Rate of Return: For purposes of calculating revenue requirement based on the assumptions in Siskiyou's application, the Parties agree to an assumed 14.6% rate of return in presenting their revenue requirement figures. The Parties further agree, however, that the revenue requirement to be adopted for the 2017 test year should reflect the cost of capital for small local exchange carriers, including Siskiyou, adopted by the Commission in Application (A.) 15-09-005.
2. Revenue requirement: Based on the assumed 14.6% rate of return, the Parties agree to a revenue requirement in the amount of \$15,524,581. The parties have agreed to an overall revenue requirement, without specifying the individual components of that revenue requirement. The revenue requirement will be updated based on the results of the cost of capital adopted in A.15-09-005 according to the following formula:

$$\text{Revenue requirement} = \$15,524,581 - [(\$5,031,607 \{\text{current return}\} \times 1.66208) - (\$34,463,072 \{\text{rate base}\} \times \text{new cost of capital percentage} \times 1.66208)].^4$$

⁴ Consistent with the parties' joint response, an inadvertent bracket following the initial 1.66208 multiplier has been removed.

A simplified version of this same equation is as follows:

$$\text{Revenue requirement} = \$15,524,581 - [\$8,362,933 - (\$57,280,383 \times \text{new cost of capital percentage})].^5$$

Within 30 days of the issuance of a final decision in A.15-09-005, Siskiyou will submit a Tier 2 advice letter recalculating its revenue requirement pursuant to the above formula. The resulting revenue requirement will be implemented as of January 1, 2017.

3. End user rates and rate design:

- (i) Siskiyou's tariffed basic, residential rates will be modified to \$24.00, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.
- (ii) Siskiyou's tariffed business rates will be modified to \$26.00, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.
- (iii) Siskiyou's rate design will be comprised of the following forecasted revenues:
 - (a) \$1,256,633 in Local Network Services revenues.
 - (b) \$5,977,977 in Interstate Universal Service Fund support for intrastate revenue requirement.
 - (c) \$56,416 in Long Distance Network revenues.
 - (d) \$412,415 in intrastate access and intercarrier compensation revenues.

⁵ As stated by the parties' joint response, this formula could also be stated as follows:

Adopted Revenue Requirement= \$15,524,581 (stipulated revenue requirement at assumed 14.6 % rate of return on rate base) - [[\$5,031,607 (stipulated net operating revenue/income at assumed 14.6 % rate of return on rate base) x 1.66208 (net-to-gross multiplier)] - [\$34,463,072 (stipulated rate base for use in calculating adopted revenue requirement) x adopted rate of return on rate base from A.15-09-005 x 1.66208]].

- (e) \$173,493 in miscellaneous and uncollectible revenues.
 - (f) The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the above formula. Under the current assumption of 14.6% cost of capital, this would be a CHCF-A draw of \$7,647,647, but this figure will be updated to reflect the cost of capital established in A.15-09-005.
4. Siskiyou will abide by the following requirements relative to its affiliates:
- (i) Siskiyou's ISP [internet service provider] operations shall be held in a separate legal entity from its regulated local exchange operations.
 - (ii) Siskiyou's regulated local exchange operations shall maintain separate books from its ISP affiliate as to all transactions.
 - (iii) Siskiyou's regulated local exchange operations shall maintain separate bank accounts for all transactions from its ISP affiliate.
 - (iv) Siskiyou shall have no joint advertising or marketing with any affiliates or unregulated operations.
 - (v) Siskiyou shall have no joint events, sponsorships, fundraisers, or charitable donations with its affiliates.
 - (vi) Siskiyou shall not transfer any physical assets that are used and useful without first obtaining necessary approvals from the Commission.
 - (vii) Siskiyou shall conduct financial transactions with its affiliates at "arms-length."
 - (viii) Siskiyou will ensure that affiliate transactions are conducted at rates and upon terms no less advantageous than those otherwise available to Siskiyou from unaffiliated third parties for similar transactions.

The settlement is a substantial compromise from the Applicant's initial proposal:

- Reduction of \$696,605 in the total intrastate test year revenue requirement from Applicant's original proposal resulting in a reduction in the total intrastate test year rate revenue requirement from \$16,221,186 to \$15,524,581.⁶
- Reduction of \$443,017 in the total intrastate test year operating expense from the Applicant's proposal resulting in a reduction in the total intrastate company test year operating expense from \$7,603,613 to \$7,160,596.⁷
- Reduction of \$1,045,009 in the test year average rate base from the rate base amount proposed by the Applicant, leading to a reduction in the total intrastate company test year rate base from \$35,508,081 to \$34,463,072.⁸
- Compromise setting Siskiyou's tariffed basic residential rates at \$24.00⁹ compared to the Applicant's proposal of \$21.63 and ORA's recommendation of \$23.17 for 2017 with annual increases of 4.91% thereafter.
- Compromise setting Siskiyou's tariffed business rates at \$26.00¹⁰ compared to the Applicant's proposal of \$24.14 and ORA's recommendation of \$25.33 for 2017 with annual increases of 4.91% thereafter.
- Agreement by Siskiyou to establish a newly-created internet service provider affiliate as a separate legal entity from its

⁶ Amount is based on the assumed 14.6% rate of return pending the final decision in A.15-09-005.

⁷ Amount imputed from agreed revenue requirement based on the assumed 14.6% rate of return pending the final decision in A.15-09-005.

⁸ Amount imputed from agreed revenue requirement based on the assumed 14.6% rate of return pending the final decision in A.15-09-005.

⁹ Monthly, effective January 1, 2017, exclusive of any surcharges, fees, or taxes.

¹⁰ Monthly, effective January 1, 2017, exclusive of any surcharges, fees, or taxes.

regulated local exchange operations with separate books and accounts for all transactions.

- Agreement by Siskiyou to restrictions on its activities with its affiliates including requiring Siskiyou conduct financial transactions with its affiliates at “arms-length.”

5. Discussion

We have historically favored settlements as a means of resolving contested issues where the settlement is in the public interest, reasonable in light of the record, and consistent with law. As set forth below, the Settlement satisfies these criteria. Accordingly, we adopt the Settlement and close this proceeding.

5.1. Standard for Review of Settlements

Rule 12.1(d) provides: “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.”

5.2. The Agreement is an All-Party Settlement

The Parties’ Settlement is not only uncontested; it is presented as an “all-party settlement.” The seminal Commission decision approving an all-party settlement is the 1992 decision in a San Diego Gas & Electric Co. rate case, D.92-12-019. The Commission, in that decision, repeated its admonition that, “we do not delve deeply into the details of settlements and attempt to second-guess and re-evaluate each aspect of the settlement, so long as the settlements as a whole are reasonable and in the public interest...”¹¹

Following this rationale, the Commission adopted four criteria (in lieu of the application of predecessors to Rule 12) for approval of an all-party

¹¹ *Re San Diego Gas & Electric Co.* D.92-12-019, 46 CPUC 2d 538, 551 (1992); citing D.90-08-068, 37 CPUC2d 346 (1990).

settlement: (a) that it “commands the unanimous sponsorship of all active parties to the instant proceeding;” (b) “that the sponsoring parties are fairly reflective of the affected interests;” (c) “that no term of the settlement contravenes statutory provisions or prior Commission decisions;” and (d) “that the settlement conveys to the Commission sufficient information to permit [the Commission] to discharge [its] future regulatory obligations with respect to the parties and their interests.”¹²

The Settlement meets these criteria.

5.2.1. The Settlement is Sponsored by All Active Parties

The Parties to this Settlement, Siskiyou and ORA, were the only parties to this proceeding. Therefore, we conclude this Settlement commands the unanimous sponsorship of all active parties to this proceeding and is appropriately presented for our approval as an all-party settlement.

5.2.2. The Sponsoring Parties Represent the Affected Interests

The Commission held in D.92-12-019 that the sponsors of an all-party settlement must represent the affected interests:

As noted in our review of recent precedent, a critical factor in our decision to adopt a settlement is confidence that it commands broad support among participants fairly reflective of affected interests. Here we find that the settlement is sponsored by a range of parties ideally positioned to comment on the operation of the utility and ratepayer perception.¹³

¹² 46 CPUC2d, at 550-551.

¹³ *Id.*, at 554.

The record reflects that this was a robustly litigated case, one where sharply divergent evidence and views of the evidence were presented. Public Utilities Code § 309.5 requires, in part, ORA “represent and advocate on behalf of the interests of public utility customers and subscribers” with a goal “to obtain the lowest possible rate for service consistent with reliable and safe service levels.” The unanimous recommendation of Siskiyou and ORA for the Commission to adopt the Settlement convinces the Commission that the Settlement is “fairly reflective of the affected interests” of the public.

5.2.3. The Terms Do Not Contravene Statute or Commission Decisions

Approval of an all-party settlement under D.92-12-019 also requires “that no term of the settlement contravenes statutory provisions or prior Commission decisions.”

Public Utilities Code Section 275.6(a) authorizes the Commission’s exercise of regulatory authority over small independent telephone corporations, such as Siskiyou, stating:

The commission shall exercise its regulatory authority to maintain the California High Cost Fund-A Administrative Committee Fund program (CHCF-A program) to provide universal service rate support to small independent telephone corporations in amounts sufficient to meet the revenue requirements established by the commission through rate-of-return regulation in furtherance of the state's universal service commitment to the continued affordability and widespread availability of safe, reliable, high-quality communications services in rural areas of the state.

Subsection (b) provides, in part,

(3) "Rate design" means the mix of end user rates, high-cost support, and other revenue sources that are targeted to provide a

fair opportunity to meet the revenue requirement of the telephone corporation.

...

(5) "Revenue requirement" means the amount that is necessary for a telephone corporation to recover its reasonable expenses and tax liabilities and earn a reasonable rate of return on its rate base.

It is further provided at subsection (c) that the commission shall,

...

(2) Employ rate-of-return regulation to determine a small independent telephone corporation's revenue requirement in a manner that provides revenues and earnings sufficient to allow the telephone corporation to deliver safe, reliable, high-quality voice communication service and fulfill its obligations as a carrier of last resort in its service territory, and to afford the telephone corporation a fair opportunity to earn a reasonable return on its investments, attract capital for investment on reasonable terms, and ensure the financial integrity of the telephone corporation.

(3) Ensure that rates charged to customers of small independent telephone corporations are just and reasonable and are reasonably comparable to rates charged to customers of urban telephone corporations.

...

The parties have established by their joint motion and the record of this proceeding that that the mix of end user rates, high-cost fund support, and other revenue, will be sufficient to provide Siskiyou a fair opportunity to recover its reasonable expenses and tax liabilities and earn a reasonable rate of return and thereby, meet its revenue requirement. The parties have further established that the proposed rates are just and reasonable as they fall within the range of \$30 to

\$37 per month, inclusive of fees and surcharges, and therefore, are presumptively reasonable pursuant to Ordering Paragraph 9 of D.14-12-084.

Therefore, we find the terms of the Settlement not only do not contravene, but indeed, are consistent with, statute and prior Commission decisions.

5.2.4. Sufficient Information is Provided for Future Commission Action

An all-party settlement must provide sufficient information for the Commission to be able to discharge future regulatory obligations with respect to the parties and their interests and obligations.

The agreement of the parties obtains the agreement of the Applicant to abide by restrictions on its transactions with affiliates and to establish as an independent entity its internet service provider operations. The agreement further establishes just and reasonable rates and sets a revenue requirement sufficient to provide Siskiyou a fair opportunity to recover its reasonable expenses and tax liabilities and earn a reasonable rate of return.

The terms of the Settlement provide the Commission sufficient information for it to be able to discharge future regulatory obligations.

5.3. The Settlement is Reasonable in Light of the Whole Record, Consistent with Law, and in the Public Interest

In evaluating settlements, the Commission recognizes “a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation.”¹⁴ Settling parties demonstrate here that the Settlement Agreement satisfies the requirements of Rule 12.1(d) and should be adopted.

¹⁴ *Re PG&E*, 30 CPUC2d 189, 221, D.88-12-083.

5.3.1. Reasonable in Light of the Whole Record

The Settlement Agreement is reasonable in light of the whole record. The Parties' testimonies establish a reasonable basis for the terms of the agreement setting Siskiyou's rates and revenue requirement. The Settlement Agreement reflects the parties' compromises within the range of the testimony. As discussed above, the basic rates established by the agreement are presumptively reasonable pursuant to Ordering Paragraph 9 of D.14-12-084.

5.3.2. Consistent With Law

The Settlement Agreement is consistent with law. The terms provide Siskiyou with the opportunity to earn reasonable rate of return and adopts a basic service rate level that is appropriate for Applicant's receipt of high-cost fund support.

5.3.3. 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 service quality and to receive a fair return on its investment. Furthermore, Siskiyou has agreed to be bound by restrictions concerning the operation of its affiliates and to establish its internet service provider as a separate legal entity with its own books and accounts. This agreement was obtained without extensive litigation and serves the interests of the public. By agreeing to rules of conduct concerning its affiliates, Siskiyou has limited the likelihood for preferential treatment, unfair competitive advantage, or the sharing of competitively sensitive confidential information and limited the potential threat to its financial health and ability to meet its public service

obligations by insulating it from the financial risks and debts of its unregulated affiliates.¹⁵

5.4. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. We feel satisfied that Siskiyou will meet the Commission's minimum safety goals and expectations for an independent local exchange carrier because: (1) Siskiyou is a public utility that is required pursuant to Public Utilities Code Section 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public." Furthermore, the parties' agreement and this decision ensure Siskiyou will receive the support required by Public Utilities Code Section 275.6(a) sufficient to:

meet the revenue requirements established by the commission through rate-of-return regulation in furtherance of the state's universal service commitment to the continued affordability and widespread availability of safe, reliable, high-quality communications services in rural areas of the state.

¹⁵ See, e.g., Rulemaking 05-10-030, *Concerning Relationship Between California Energy Utilities And Their Holding Companies And Non-Regulated Affiliates*.

6. 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.) We recognize that the Settlement Agreement represents parties' compromises of the issues in this proceeding only.

7. Admission of Testimony into Evidence

Siskiyou and ORA agree to the admission into the record previously served testimony. Based on the agreement of the parties and good cause appearing, we admit into evidence Siskiyou's testimony supporting its application and served on December 1, 2015, consisting of the testimony of James T. Lowers, David A. Lashua, Larry Thompson, Dale E. Lehman, and Tim Edwards, and ORA's testimony served on May 9, 2016 consisting of the public and confidential versions of ORA's Report and Recommendation attested to by Charlotte Chitadje, Roy Keowen, Yanhua Xue, and Patrick Hoglund.

8. Confidential Testimony to be Filed Under Seal

The confidential testimony on behalf of Siskiyou consisting of testimony of James T. Lowers and David A. Lashua and attached confidential materials and confidential versions of ORA's Report and Recommendation are recognized to contain information which is sensitive, and disclosure could place Applicant at an unfair business disadvantage. We have granted requests in the past pursuant to Rule 11.4 for filing under seal and do so on our own motion here.

9. Categorization and Need for Hearing

This proceeding is categorized as ratesetting with the need for hearing. The matter is resolved however, 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 to hearing not required.

10. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

11. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Eric Wildgrube is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. On December 1, 2015, Siskiyou filed this GRC Application seeking approval of its intrastate rates and charges, to update its intrastate revenue requirement, establish a rate design and an increase its draw from the CHCF-A.
2. As required by Rule 3.2, Siskiyou complied with the Commission's Customer Notice requirements and filed its Notice of its compliance with the Commission on January 12, 2016.
3. Siskiyou and ORA have entered into a voluntary settlement to resolve all pending issues in this proceeding.
4. Siskiyou and ORA are the only active parties.
5. The active parties fairly reflect the interests affected by this proceeding.

6. The terms of the Settlement are reasonable given the record, the parties' agreement, and the Commission's resolution of prior matters.

7. The terms of the Settlement are consistent with the public interest.

8. The Settlement is unopposed.

9. A decision in A.15-09-005, the Commission's cost of capital proceeding for the small local exchange carriers is expected later this year.

10. The parties have agreed raising the tariffed basic residential rate to \$24.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2017, is reasonable.

11. The parties have agreed raising the tariffed basic business rate to \$26.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2017, is reasonable.

12. The parties have agreed Siskiyou's rate design will be comprised of the following forecasted revenues:

- a. \$1,256,633 in Local Network Services revenues;
- b. \$5,977,977 in Interstate Universal Service Fund support for intrastate revenue requirement;
- c. \$56,416 in Long Distance Network revenues;
- d. \$412,415 in intrastate access and intercarrier compensation revenues; and
- e. \$173,493 in miscellaneous and uncollectible revenues.
- f. The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the formula adopted by Ordering Paragraph 6. Under the current assumption of 14.6% cost of capital, this would be a CHCF-A draw of \$7,647,647, but this figure will be updated to reflect the cost of capital established in A.15-09-005.

13. Siskiyou has agreed to establish a newly-created internet service provider affiliate as a separate legal entity from its regulated local exchange operations with separate books and accounts for all transactions.

14. Siskiyou has agreed to restrictions on its activities with its affiliates including requiring Siskiyou conduct financial transactions with its affiliates at “arms-length.”

15. No hearing is necessary on the Settlement or this resolution of A.15-12-001; therefore, the determination in the scoping memo should be changed.

16. Siskiyou and ORA agree to the admission into the record previously served testimony. Siskiyou’s testimony supporting its application and served on December 1, 2015, consisting of the testimony of James T. Lowers, David A. Lashua, Larry Thompson, Dale E. Lehman, and Tim Edwards, and ORA’s testimony served on May 9, 2016 consisting of the public and confidential versions of ORA’s Report and Recommendation attested to by Charlotte Chitadje, Roy Keowen, Yanhua Xue, and Patrick Hogle should be admitted into the record.

17. The confidential testimony and attached materials of Siskiyou consisting of testimony of James T. Lowers and David A. Lashua and confidential versions of ORA’s Report and Recommendation should be filed under seal pursuant to Rule 11.4.

Conclusions of Law

1. The Settlement is an uncontested agreement as defined by Rule 12.1(d) of the Commission’s Rules of Practice and Procedure and is an all-party settlement under *San Diego Gas & Electric*, D.92-12-019. The proposed Settlement satisfies the requirements of Rule 12.1(d) and D.92-12-019.

2. The parties complied with procedural rules of Article 12 of the Commission's Rules of Practice and Procedure requiring a settlement conference (Rule 12.1(b)) and comment (Rule 12.2).

3. The Settlement is consistent with law and in the public interest.

4. The parties' motion for adoption of the Settlement should be granted and the Settlement should be approved.

5. The 30-day period for public review and comment of the proposed decision in this matter should be waived pursuant to Pub. Util. Code § 311(g)(2) and Rule 14.6(c)(2) because the filing of the Settlement Agreement makes this proceeding an uncontested matter, and in approving the Settlement Agreement this decision grants the relief requested by all parties.

6. This decision should be made effective immediately to provide certainty regarding resolution of these proceedings and to enable Siskiyou and the Commission to implement the Settlement without delay.

7. Within 30 days of the issuance of a final decision in A.15-09-005, Siskiyou should submit a Tier 2 advice letter recalculating its revenue requirement pursuant to the following formula:

$$\text{Revenue requirement} = \$15,524,581 - [(\$5,031,607 \{\text{current return}\} \times 1.66208) - (\$34,463,072 \{\text{rate base}\} \times \text{new cost of capital percentage} \times 1.66208)]$$

The resulting revenue requirement will be implemented as of January 1, 2017.

8. Within 30 days of the issuance of this decision, Siskiyou should file revised tariffs setting the basic residential rate to \$24.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.

9. Within 30 days of the issuance of this decision, Siskiyou should file revised tariffs setting the tariffed basic business rate to \$26.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2017, is reasonable.

10. Siskiyou should abide by the following requirements relative to its affiliates:

- a) Siskiyou's ISP [internet service provider] operations shall be held in a separate legal entity from its regulated local exchange operations.
- b) Siskiyou's regulated local exchange operations shall maintain separate books from its ISP affiliate as to all transactions.
- c) Siskiyou's regulated local exchange operations shall maintain separate bank accounts for all transactions from its ISP affiliate.
- d) Siskiyou shall have no joint advertising or marketing with any affiliates or unregulated operations.
- e) Siskiyou shall have no joint events, sponsorships, fundraisers, or charitable donations with its affiliates.
- f) Siskiyou shall not transfer any physical assets that are used and useful without first obtaining necessary approvals from the Commission.
- g) Siskiyou shall conduct financial transactions with its affiliates at "arms-length."
- h) Siskiyou will ensure that affiliate transactions are conducted at rates and upon terms no less advantageous than those otherwise available to Siskiyou from unaffiliated third parties for similar transactions.

11. This order should be effective today so that the Settlement Agreement is effective without delay, thereby providing certainty to The Siskiyou Telephone Company, shareholders, ratepayers, and the public.

O R D E R

IT IS ORDERED that:

1. The June 16, 2016 *Joint Motion for Adoption of All-Party Settlement Agreement* by The Siskiyou Telephone Company and the Office of Ratepayer Advocates of the California Public Utilities Commission is granted and the Settlement Agreement, appended to today's decision as Appendix A, is approved.

2. All rulings of the assigned Commissioner and Administrative Law Judge are affirmed.

3. The determination concerning the need for hearing is changed to hearing not required.

4. The Siskiyou Telephone Company's testimony supporting its application and served on December 1, 2015, consisting of the testimony of James T. Lowers, David A. Lashua, Larry Thompson, Dale E. Lehman, and Tim Edwards, and Office of Ratepayer Advocates' testimony served on May 9, 2016 consisting of the public and confidential versions of Office of Ratepayer Advocates' Report and Recommendation attested to by Charlotte Chitadje, Roy Keowen, Yanhua Xue, and Patrick Hoglund are admitted into the record.

5. The confidential testimony of James T. Lowers and David A. Lashua and attached materials on behalf of The Siskiyou Telephone Company and confidential versions of Office of Ratepayer Advocates' Report and Recommendation are filed under seal on the Commission's own motion pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure for a period of three years after the date of this order. During this three-year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If The Siskiyou Telephone Company

believes that it is necessary for this information to remain under seal for longer than three years, The Siskiyou Telephone Company may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

6. Within 30 days of the issuance of a final decision in A.15-09-005, The Siskiyou Telephone Company shall submit a Tier 2 advice letter recalculating its revenue requirement pursuant to the following formula:

$$\text{Revenue requirement} = \$15,524,581 - [(\$5,031,607 \{\text{current return}\} \times 1.66208) - (\$34,463,072 \{\text{rate base}\} \times \text{new cost of capital percentage} \times 1.66208)]$$

The resulting revenue requirement will be implemented as of January 1, 2017.

7. The Siskiyou Telephone Company's rate design will be comprised of the following forecasted revenues:

- a) \$1,256,633 in Local Network Services revenues.
- b) \$5,977,977 in Interstate Universal Service Fund support for intrastate revenue requirement.
- c) \$56,416 in Long Distance Network revenues.
- d) \$412,415 in intrastate access and intercarrier compensation revenues.
- e) \$173,493 in miscellaneous and uncollectible revenues.
- f) The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the above formula. Under the current assumption of 14.6% cost of capital, this would be a CHCF-A draw of \$7,647,647, but this figure will be updated to reflect the cost of capital established in A.15-09-005, as set forth by Ordering Paragraph 6, above.

8. Within 30 days of the issuance of this decision, The Siskiyou Telephone Company shall file revised tariffs setting the basic residential rate to \$24.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.

9. Within 30 days of the issuance of this decision, The Siskiyou Telephone Company shall file revised tariffs setting the basic business rate to \$26.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.

10. The Siskiyou Telephone Company shall comply with the following requirements relative to its affiliates:

- a) Siskiyou's ISP [internet service provider] operations shall be held in a separate legal entity from its regulated local exchange operations.
- b) Siskiyou's regulated local exchange operations shall maintain separate books from its ISP affiliate as to all transactions.
- c) Siskiyou's regulated local exchange operations shall maintain separate bank accounts for all transactions from its ISP affiliate.
- d) Siskiyou shall have no joint advertising or marketing with any affiliates or unregulated operations.
- e) Siskiyou shall have no joint events, sponsorships, fundraisers, or charitable donations with its affiliates.
- f) Siskiyou shall not transfer any physical assets that are used and useful without first obtaining necessary approvals from the Commission.
- g) Siskiyou shall conduct financial transactions with its affiliates at "arms-length."
- h) Siskiyou will ensure that affiliate transactions are conducted at rates and upon terms no less advantageous than those otherwise available to Siskiyou from unaffiliated third parties for similar transactions.

11. Application 15-12-001 is closed.

This order is effective today.

Dated September 29, 2016, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

LIANE M. RANDOLPH

Commissioners

Carla J. Peterman, being necessarily
absent, did not participate.

Appendix A

Settlement Agreement

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

In the Matter of Application of The Siskiyou Telephone Company (U 1017 C) to Review Intrastate Rates and Charges, Establish a New Intrastate Revenue Requirement and Rate Design, and Modify Selected Rates

A.15-12-001
(filed December 1, 2015)

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into as of June 13, 2016, by and between Applicant The Siskiyou Telephone Company ("Siskiyou") and the Office of Ratepayer Advocates of the California Public Utilities Commission ("ORA") in accordance with Article 12 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"). Siskiyou and ORA are identified herein collectively as the "Parties."

RECITALS

WHEREAS, on December 1, 2015, Siskiyou filed a general rate case application ("Application") seeking an increase in its revenue requirement, an increase to its draw from the California High Cost Fund A ("CHCF-A"), and modifications to selected rates;

WHEREAS, on December 3, 2015, the California Public Utilities Commission ("CPUC" or "Commission") published in its Daily Calendar public notice of the filing of the Application;

WHEREAS, on January 5, 2016, ORA filed its Protest to the Application opposing certain aspects of Siskiyou's application;

WHEREAS, Siskiyou submitted pre-filed testimony from five witnesses addressing the issues raised by the Application;

WHEREAS, ORA issued sixteen detailed sets of data requests, including more than 90 specific questions, many with numerous subparts, and requested additional materials via email correspondence as well as during conference calls and ORA's site visit with Siskiyou, to examine the issues raised by the Application and test the validity of Siskiyou's statements and conclusions, and Siskiyou responded to each of those data requests with substantial responsive information;

WHEREAS, a Pre-Hearing Conference in this proceeding took place on February 5, 2016;

WHEREAS, a Public Participation Hearing took place on April 19, 2016 in Etna, California;

WHEREAS, ORA submitted its opening testimony on May 9, 2016;

WHEREAS, the Parties engaged in substantive settlement discussions starting shortly after ORA submitted its opening testimony on May 9, 2016, and leading up until execution of this agreement;

WHEREAS, on June 1, 2016, the Parties held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b);

WHEREAS, Siskiyou and ORA have arrived at an agreement resolving all issues that is reasonable in light of the whole record, is consistent with the law of the State of California, and is in the public interest.

AGREEMENT

NOW, THEREFORE, based upon the mutual agreement reflected in this Settlement Agreement, Siskiyou and ORA agree to resolution of Siskiyou's general rate case Application as follows:

a. Rate of return: For purposes of calculating revenue requirement, the parties agree to an assumed 14.6% rate of return. The parties further agree, however, that the revenue requirement to be adopted for the 2017 test year should reflect the results of the cost of capital adopted in A.15-09-005.

b. Revenue requirement: Based on the assumed 14.6% rate of return, the parties agree to a revenue requirement in the amount of \$15,524,581. The revenue requirement will be updated based on the results of the cost of capital adopted in A.15-09-005 according to the following formula:

$$\text{Revenue requirement} = \$15,524,581 - [(\$5,031,607 \text{ \{current return\}} \times 1.66208)] - [\$34,463,072 \text{ \{rate base\}} \times \text{new cost of capital percentage} \times 1.66208)].$$

Within 30 days of the issuance of a final decision in A.15-09-005, Siskiyou will submit a Tier 2 advice letter recalculating its revenue requirement pursuant to the above formula. The resulting revenue requirement will be implemented as of January 1, 2017.

c. End user rates and rate design:

- i. Siskiyou's tariffed basic, residential rates will be modified to \$24.00, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.
- ii. Siskiyou's tariffed business rates will be modified to \$26.00, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.
- iii. Siskiyou's rate design will be comprised of the following forecasted revenues:
 1. \$1,256,633 in Local Network Services revenues.
 2. \$5,977,977 in Interstate Universal Service Fund support for intrastate revenue requirement.
 3. \$56,416 in Long Distance Network revenues.
 4. \$412,415 in intrastate access and intercarrier compensation revenues.

5. \$173,493 in miscellaneous and uncollectible revenues.
6. The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the formula in subpart (b), above. Under the current assumption of 14.6% cost of capital, a CHCF-A draw of \$7,647,647.

d. Affiliates: Siskiyou will abide by the following requirements relative to its affiliates:

1. Siskiyou's ISP operations shall be held in a separate legal entity from its regulated local exchange operations.
2. Siskiyou's regulated local exchange operations shall maintain separate books from its ISP affiliate as to all transactions.
3. Siskiyou's regulated local exchange operations shall maintain separate bank accounts for all transactions from its ISP affiliate.
4. Siskiyou shall have no joint advertising or marketing with any affiliates or unregulated operations.
5. Siskiyou shall have no joint events, sponsorships, fundraisers, or charitable donations with its affiliates.
6. Siskiyou shall not transfer any physical assets that are used and useful without first obtaining necessary approvals from the Commission.
7. Siskiyou shall conduct financial transactions with its affiliates at "arms-length."
8. Siskiyou will ensure that affiliate transactions are conducted at rates and upon terms no less advantageous than those otherwise available to Siskiyou from unaffiliated third parties for similar transactions.

e. The provisions of this Settlement Agreement are not severable and shall only become effective after the Commission has entered an order approving this Settlement Agreement without modification. In the event this Settlement Agreement is not accepted in its entirety by the Commission, it shall be deemed to be withdrawn, without prejudice to any claims,

positions or contentions that may have been made or are made in this proceeding by any party and shall not be admissible in evidence or in any way described in any proceedings hereinafter. Siskiyou and ORA agree to admit into the record of this proceeding testimony already served without waiving the right to object to such testimony or to cross-examine witnesses sponsoring such testimony in the event the Commission rejects or modifies the terms of this Settlement Agreement. The provisions of this Settlement Agreement shall not be construed as or deemed to be a precedent by any party or the Commission with respect to any issue, principle, or interpretation or application of law and regulations, for any purpose or in connection with any proceeding before a court of law or any state or federal government regulatory body.

f. The Commission shall have exclusive jurisdiction over any issues related to this Settlement Agreement and no other court, regulatory agency or other governing body will have jurisdiction over any issue related to the interpretation of this Settlement Agreement, or the rights of the Parties in this Settlement Agreement, with the exception of any court that may now or in the future, by statute or otherwise, have jurisdiction to review Commission decisions.

g. This Settlement Agreement was jointly prepared by the Parties and any uncertainty or ambiguity existing in the document will not be interpreted against any party on the basis that such party drafted or prepared the Settlement Agreement.

h. Each of the undersigned Parties agrees to abide by the terms of this Settlement Agreement.

i. The Settlement Agreement may be executed in counterparts.


j. This Settlement Agreement constitutes and represents the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, negotiations,

representations, warranties and understandings of the Parties with respect to the subject matter set forth herein.

- k. This Settlement Agreement resolves all outstanding issues in this proceeding.
- l. This Settlement Agreement cannot be amended or changed except by a written amendment signed by both Parties and approved by the Commission.
- m. The Parties will file a Joint Motion seeking Commission approval of the Settlement Agreement in its entirety and without change.
- n. By signing below, each signatory represents and warrants that he/she is authorized to sign this Settlement Agreement on such Party's behalf and thereby binds such Party to the terms of this Settlement Agreement.


OFFICE OF RATEPAYER ADVOCATES
OF THE CALIFORNIA PUBLIC UTILITIES
COMMISSION

Dated: 6-13-16

By: 
Elizabeth Echols
Director of the Office of Ratepayer Advocates
California Public Utilities Commission

THE SISKIYOU TELEPHONE COMPANY

Dated: 6-14-16

By: 
James T. Lowers
President, CEO and Controller
The Siskiyou Telephone Company