

Decision \_\_\_\_\_

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

In the Matter of Application of The  
Ponderosa Telephone Co. (U1014C) to  
Modify Intrastate Revenue  
Requirement and Rate Design and  
Adjust Selected Rates.

Application 22-10-004

**DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT  
APPROVING REVENUE REQUIREMENT AND RATE DESIGN  
AND SELECTED RATES FOR THE PONDEROSA  
TELEPHONE COMPANY FOR TEST YEAR 2024**

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Attachment 1: Joint Motion for Adoption of All-Party Settlement Agreement  
with attachment.

**DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT  
APPROVING REVENUE REQUIREMENT AND RATE DESIGN  
AND SELECTED RATES FOR THE PONDEROSA  
TELEPHONE COMPANY FOR TEST YEAR 2024**

**Summary**

This decision authorizes the revenue requirement proposed in the Settlement Agreement between the Ponderosa Telephone Company and the Public Advocates Office of the California Public Utilities Commission as summarized in the following table, and as discussed in greater detail throughout this decision:

<b>Rate Case Item</b>	<b>Amount Agreed Per Settlement to be Adopted by this Decision</b>
<b>Operating Revenues</b>	\$12,850,973
<b>Operating Expenses</b>	\$10,258,219 (excluding depreciation)
<b>Total Rate Base</b>	\$30,719,838
<b>Rate of Return</b>	8.44%
<b>Return on Rate Base</b>	\$2,592,754

This decision adopts an overall intrastate revenue requirement of \$12,850,973 for Test Year 2024, including \$4,429,975 from the California High-Cost Fund-A. Upon adoption of this decision, the rates for Ponderosa's residential customers shall be modified to \$26.50 (exclusive of surcharges, fees and taxes), and the rates for Ponderosa's business customers will be modified to \$38.10 (exclusive of surcharges, fees, and taxes). Once surcharges, taxes and fees are included, the rate that Ponderosa proposes for its residential customers is within the \$30 to \$40 range for small telephone corporations that the Commission set in Decision (D.) 21-06-004 and is deemed just and reasonable and reasonably comparable to rates charged to customers of urban telephone corporations and should be adopted.

Application 22-10-004 is closed.

## **1. The Parties**

### **1.1. Ponderosa Telephone Company**

The Ponderosa Telephone Co. (Ponderosa) is a small rural telephone company and incumbent local exchange carrier, serving customers in portions of Madera, Fresno, and San Bernardino counties. Ponderosa serves approximately 7,700 access lines in its two telephone wire centers: Cima and Friant. Its system consists mainly of a system of cables and wires facilitating connections to customer locations and interconnection to the public switched telephone network. Ponderosa's infrastructure includes underground and aerial cable and lines, radio equipment, central office equipment, land, buildings, and miscellaneous other equipment.<sup>1</sup>

### **1.2. Public Advocates Office of the Commission**

The Public Advocates Office of the California Public Utilities Commission (Cal Advocates) is an independent organization within the California Public Utilities Commission (Commission) which advocates on behalf of ratepayers statewide. Its statutory mission is to obtain the lowest possible utility rates for customers consistent with safe, reliable service and the state's environmental goals. Cal Advocates also strives to ensure that no one is left behind and that all communities have access to safe and affordable electric, gas, water, and communication services including, broadband service.

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<sup>1</sup> See Application at 28.

## 2. Procedural History

Ponderosa filed Application (A.) 22.10-004 with the Commission on October 3, 2022, for review of its intrastate rates and charges for regulated intrastate telecommunications services applicable to its 2024 Test Year (TY).<sup>2</sup> Ponderosa seeks to advance California’s important policy effort to “bridge the digital divide” under Public Utilities (Pub. Util.) Code § 709(d) by enhancing broadband deployment in rural areas of California. The annual threat of devastating wildfires provides a continued reminder of the central role that access to reliable voice and access to advanced broadband service plays in public safety, especially given the limitations of wireless service in rural areas. Wildfire impacts are particularly acute in Ponderosa’s territory, where the devastating “Creek Fire” burned almost 380,000 acres, displaced hundreds of households, and required swift and continuous emergency response activities from Ponderosa and other key community stakeholders. Likewise, the COVID-19 pandemic highlighted the need for rural connectivity, as many essential services, social necessities, and economic opportunities were not available “in person” during 2020 and “face-to-face” interactions remained limited into 2022. For this reason, Ponderosa states that it is committed to advancing its broadband-capable network, which will provide the residents of Fresno and Madera counties with access to increasing levels of broadband speed and bandwidth, consistent with

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<sup>2</sup> Ponderosa’s revenue requirement and rate design were last examined in 2016 and 2017 with reference to a test year of 2018.

the growing customer demand for advanced services.<sup>3</sup> Ponderosa's application includes opening direct testimony of seven witnesses.<sup>4</sup>

The instant Application appeared on the Commission's Daily Calendar on October 5, 2022. On October 20, 2022, in Resolution ALJ 176-3516, the Commission preliminarily designated the proceeding as ratesetting and concluded that hearings would be necessary.

On November 2, 2022, Cal Advocates filed a protest to Ponderosa's application with a principal focus on the following: (1) Ponderosa's proposed revenue requirement; (2) service quality for voice and broadband services; and (3) Ponderosa's proposed rate design. Ponderosa addressed Cal Advocates' protest in its reply filed on November 14, 2022. The assigned Administrative Law Judge (ALJ) held a prehearing conference (PHC) on December 14, 2022. A public participation hearing (PPH)<sup>5</sup> was held on February 8, 2023.

The assigned Commissioner's Scoping Memo and Ruling issued on March 28, 2023 ("Scoping Ruling") confirmed the categorization of the proceeding as ratesetting and adopted a procedural schedule for the proceeding.

Cal Advocates filed testimony on April 21, 2023. Ponderosa filed rebuttal testimony on May 22, 2023.

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<sup>3</sup> See Application at 1-2.

<sup>4</sup> Concurrent with the filing of its application, Ponderosa served prepared direct testimony of Karen Silkwood Mattes, Matthew Boos, Eric Vargas, Chad Duval, Dr. Dale E. Lehman, Nick Huckaby and Larry D. Thompson.

<sup>5</sup> A PPH is not a formal hearing at which evidence is taken into the record. However, it provides an opportunity for members of the public to offer comments to the ALJ about the quality of service by Ponderosa as well as any other issues that may be of concern to the communities that Ponderosa serves.

Ponderosa and Cal Advocates exchanged extensive discovery in the form of detailed data requests.<sup>6</sup> Cal Advocates also conducted a site visit to Ponderosa on March 20, 2023. Virtual evidentiary hearings (EH) were scheduled to begin on June 26, 2023; however, the parties reached informal resolution of their disputes and held an all-party settlement conference on June 21, 2023. On July 28, 2023, the parties filed a Joint Motion for Adoption of All-Party Settlement Agreement (JMSA).<sup>7</sup>

### **3. Settlement Agreement**

The parties' Settlement Agreement proposes an overall intrastate revenue requirement of \$12,850,973 for the test year 2024 (TY 2024). The intrastate revenue requirement agreed to by the parties is based on the 8.44% rate of return/cost of capital that the Commission adopted in (Decision (D.) 16-12-035.<sup>8</sup> Based on that rate, parties also include a subsidy draw of \$4,249,975 from CHCF-A.<sup>9</sup> Effective January 1, 2024, the parties modify Ponderosa's tariffed basic residential rates to \$26.50 and one-party business rates to \$38.10 (exclusive of surcharges, fees, or taxes), and adopt new retail low income broadband pricing rates through Ponderosa's internet service provider (ISP) affiliate, Ponderosa Cablevision (Cablevision). The parties' Settlement Agreement also proposes that

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<sup>6</sup> See JMSA at 2.

<sup>7</sup> Exhibit 1 to the JMSA is the Settlement Agreement (which has an Attachment A - Ponderosa's Results of Operation (ROI) Table for Test Year 2024) and an Attachment B - Ponderosa's Depreciation Rates. Exhibit 2 to the JMSA is a Comparison of the Parties' Positions and Settlement Terms. Exhibit 3 to the JMSA is a Comparison of Ponderosa's and Cal Advocates' ROI proposals with their agreed settlement proposal.

<sup>8</sup> JMSA at 3. Within 30 days of issuance of a final decision in A.22-09-003, Ponderosa will submit a Tier 2 Advice Letter recalculating its revenue requirement and components. The resulting revenue requirement will be implemented as of the effective date of the final decision in A.22-09-003.

<sup>9</sup> JMSA at 4.

certain custom calling and voicemail features be included in Ponderosa's basic rate for residential customers at no additional charge.<sup>10</sup>

This decision accepts the parties' proposals in their Exhibit 1 Settlement Agreement and its Attachments subject to the Commission's precedent and broad policy parameters governing Operating Expenses, Corporate Expense Cap, Rate Base and CHCF-A as discussed below, and sets Ponderosa's forecasted revenue (updated to reflect the parties' settlement proposal) as:

Source	Amount
Local Network Services Revenues	\$2,898,248
Interstate Universal Service Fund (USF) Support for Intrastate Revenue Requirement	\$3,795,998
Intrastate Special and Switched Access Revenues	\$331,003
Miscellaneous and Uncollectible Revenues	\$109,484
CA High-Cost Fund-A draw	\$4,429,975
Total Revenue Requirement for 2024 Test Year	\$12,850,973

#### 4. **Affordable Broadband Service and Broadband Adoption**

Ponderosa and Cal Advocates agree that Cablevision will offer broadband service at the maximum available speed at the subscriber's location, up to 100

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<sup>10</sup> Settlement Agreement at 4. The parties propose to modify Ponderosa's tariff to eliminate charges for Call Forwarding, Call Waiting, Three Way Calling, Speed Calling, Toll Restriction, Remote Access to Call Forwarding, Warm Line, Teen Service, Automatic Redial, Selective Call Forwarding, Selection Call Acceptance, Selective Call Rejection, Priority Ringing, Anonymous Call Rejection, Call ID Blocking, Caller ID, Caller ID-Name and Number, Call Trace, Call Return, Automatic Redial and Voicemail.



Megabits per second (Mbps) download and 20 Mbps upload to eligible low-income customers<sup>11</sup> for a price of \$45 per month.<sup>12</sup>

Ponderosa and Cal Advocates agree that Ponderosa's ISP affiliates shall pursue a strategic broadband adoption plan over a four-year period to achieve the following customer subscriptions to broadband plans equal to or higher than broadband speeds of 25 Mbps download and 3 Mbps upload as a percentage of total broadband subscribers.<sup>13</sup> This requirement is distinct from the Affordable Broadband Service requirement referenced directly above, and carries a different download and upload speed requirement as well. The settlement agreement holds that Cablevision shall pursue a strategic broadband adoption plan over a four-year period to achieve the following percentage of customer subscriptions to broadband plans equal to or higher than broadband speeds of 25 Mbps download and 3 Mbps upload as a percentage of total broadband subscribers:

- i. 2024: 30% subscription rate
- ii. 2025: 36% subscription rate
- iii. 2026: 42% subscription rate
- iv. 2027: 48% subscription rate

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<sup>11</sup> JMSA at 5. "Eligible low-income customer" is defined as an individual who has been designated as eligible under the LifeLine program, or under the Federal Communications Commission's (FCC) Affordable Connectivity Program (ACP).

<sup>12</sup> JMSA at 7-8 and the Settlement Agreement at 5, setting forth rates and eligibility in detail.

<sup>13</sup> JMSA at 6; Settlement Agreement at 7, setting forth subscription rates from 2024 - 2027.

## **5. Service Quality, Safety, and Project Reporting**

As part of the parties' Settlement Agreement, Ponderosa agrees to report broadband service quality metrics with respect to Cablevision on an annual basis pursuant to General Order 133-D.<sup>14</sup>

## **6. Operating Expenses**

Operating expenses include four major expense groups: plant specific operations, plant non-specific operations, customer operations, and corporate operations (corporate expenses). During the Commission's general rate case (GRC) review process, staff examines all aspects of operating expenses. In D.21-06-004, the Commission explained that it uses FCC's operating expense caps as a rational mechanism for calculating and determining a reasonable amount of operating expenses for carriers drawing from the CHCF-A program. The Commission noted that the FCC uses its operating expense cap analysis to determine the level of High Cost Loop Support (HCLS), and that the financial data used to determine federal loop support is similar to the type of information the Commission uses for its GRC review and analysis and can be used to derive intrastate operating expenses.<sup>15</sup> The National Exchange Carrier Association (NECA) calculates the FCC's operating expense cap for each carrier by using a regression model, which generates an annual operating expense per location plus 1.5 standard deviations (defined as the mean standard error of the regression) multiplied by the number of locations. The regression model is based on housing units (locations) and density and is described in detail in 47 Code of Federal Regulations (CFR) Section 54.303(a)(1) of the FCC's rules.

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<sup>14</sup> JMSA at 6; Settlement Agreement at 6-7.

<sup>15</sup> See D.21-06-004 at 26.

This decision accepts the parties' proposals in their Exhibit 1 Settlement Agreement and its Attachments subject to the Commission's precedent and broad policy parameters governing operating expenses.

## **7. The Corporate Expense Cap**

In D.21-06-004, the Commission affirmed the use of the FCC's corporate expense cap mechanism for calculating and determining a reasonable level of corporate expenses for telecommunications carriers drawing from CHCF-A.<sup>16</sup> All corporate expenses under the FCC corporate expense cap are considered reasonable, however, expenses over the cap are considered unreasonable and not eligible for recovery.<sup>17</sup> The Commission explained that its intent in adopting the FCC's corporate expense for small telecommunications carriers, was to determine how the CHCF-A program can more efficiently and effectively meet its stated goals of providing affordable, widely available, safe, reliable and high quality communications services for rural areas of the state. The Commission stated that adopting a uniform standard for determining a reasonable level of corporate operations expenses for carriers receiving subsidies from the CHCF-A program allows the CHCF-A program to achieve its goals while ensuring that the level of support is not excessive or wildly disparate across companies and avoids imposing an undue burden on California ratepayers who contribute to the fund.<sup>18</sup>

Pursuant to this settlement, the parties agree to the use of the FCC's corporate expense cap mechanism for calculating and determining a reasonable

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<sup>16</sup> See D.21-06-004 at 23.

<sup>17</sup> See D.21-06-004 at 24, where the Commission eliminated the rebuttable presumption previously allowed in D.14-12-084, and clarified that rate case litigation expense is subject to the corporate expense cap and must be recorded in FCC Account 6720.

<sup>18</sup> D. 21-06-004 at 23, fn 62 citing D.14-12-084 at 28.

level of corporate expenses for telecommunications carriers drawing from CHCF-A.

## **8. Rate Base**

In D.21-06-004, the Commission determined that, to support transparency and to ensure that cost recovery is appropriate, small telephone companies should use the rate base amount from NECA's latest cost study as a starting point of a rate base for each GRC Test Year. The Commission reasoned that, because NECA's rate base figures are at least two years behind a test year, adjustment could be made for new additions, closure of plants, or other changes that have occurred since the year of the NECA cost study. For this reason, the Commission concluded that the NECA cost study is a reasonable method for forecasting GRC Test Year rate base because the recorded NECA cost study rate base amounts are comparable to the GRC forecasted amounts, with an average difference of 1.77%. The NECA cost study includes total company rate base, which is then allocated between the intrastate and the interstate jurisdictions. Small telephone companies were directed to allocate the same amount of rate base to the intrastate jurisdiction as shown in the NECA cost study. This approach would ensure proper jurisdictional allocation. The NECA cost study also incorporates the most recent recorded level of plant additions and depreciation, which will help streamline the GRC process. Therefore, small telephone companies must submit their most recent NECA cost study, including all data relating to the intrastate rate base, with their GRC application. Any changes to rate base "including plant additions or closures" shall be subject to a reasonableness review.

This decision accepts the parties' proposals in their Exhibit 1 Settlement Agreement and its Attachments subject to the Commission's precedent and broad policy parameters governing rate base.

**9. The California High-Cost Fund  
A (CHCF-A) Subsidy**

Pub. Util. Code Section 275.6 requires the Commission to minimize telephone rate disparities between rural and metropolitan areas to keep rates affordable in areas with lower population densities.<sup>19</sup> The CHCF-A subsidy provides supplemental revenues to small rural telephone companies. Without this subsidy telephone companies would have to charge a high fee for basic exchange access line service rates in rural areas, which would threaten universal service access for residents of those areas.

The CHCF-A subsidy supports small independent telephone companies (including Ponderosa) to allow rural residents to stay connected to essential services to maintain public health and safety.

The Commission and the State of California have deemed such access to reliable, affordable telephone service to be critical to public safety within rural communities, and beneficial to the state as a whole. The CHCF-A program is funded by a surcharge collected from California end users of intrastate telecommunications services. The Commission periodically reviews the program fund levels and adjusts the surcharge rate to ensure the program is sufficiently funded. All telephone corporations are required to assess surcharges. D.22-10-021 adopted a new surcharge methodology to fund California's Universal Service Public Purpose Programs (PPP). Effective April 1, 2023, a customer's bill shows a

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<sup>19</sup> Pub. Util. Code § 275.6 (c)(1) authorizes the Commission to set rates charged by small telephone companies in accordance with Sections 451, 454, 455 and 728.

single consolidated surcharge amount for all six PPPs and the CHCF-A fund receives 7.54 percent of the total surcharge amount of \$1.11 per access line. In administering the CHCF-A program, the Commission must “ensure that rates charged to customers of small independent telephone corporations are just and reasonable and reasonably comparable to rates charged to customers of urban telephone corporations.” In the Commission’s CHCF-A rulemaking proceeding, the Commission deemed presumptively reasonable and non-rebuttable a small telephone company rate range of \$30.00 to \$40.00, for basic residential service, inclusive of additional charges such as federal and state fees and surcharges.<sup>20</sup>

This decision accepts the parties’ proposals in their Exhibit 1 Settlement Agreement and its Attachments subject to the Commission’s precedent and broad policy parameters governing CHCF-A.

#### **10. Settlement Standard of Review**

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.<sup>21</sup> In order for the Commission to consider a proposed settlement in a proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding and engaged in thoughtful analysis of the Application and of the underlying assumptions and data included in the evidentiary record.

Rule 12.1 sets forth the requirements for proposed settlements. As discussed below, the parties’ Settlement Agreement satisfies the Commission’s standard of review.

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<sup>20</sup> See D.14-12-084, as updated in D.21-06-004.

<sup>21</sup> Rule 12.1(d) of the Commission’s Rules of Practice and Procedure (Rule). All references to “Rule” or “Rules” herein refer to the Commission’s Rules of Practice and Procedure.

Rule 12.5 limits the future applicability of a settlement.<sup>22</sup>

### **10.1. The Settlement Meets the Standard of Review for Settlement**

As previously noted, the parties held substantive settlement discussions, and their Settlement Agreement was the result of those discussions, including a June 21, 2023, all-party settlement conference, in compliance with Rule 12.1(b).

The proceeding record consists of the filed Application, served testimony and related documents, the JMSA and its three Exhibits (including Exhibit 1 the Settlement Agreement) and the Attachments to the Settlement Agreement. The parties represent that their Settlement Agreement resolves the concerns that Cal Advocates raised in its protest and addresses the issues within the scoping memorandum. There is sufficient information within the parties' JMSA and Settlement Agreement to permit the Commission to discharge its regulatory obligations.

### **10.2. Cal Advocates Analysis of the Record**

Cal Advocates represents the interests of ratepayers. Cal Advocates representatives must demonstrate that they have a thorough understanding of the GRC issues, which permitted them to make informed decisions respecting the best interests of ratepayers, during the settlement process.

The record of this proceeding shows that Cal Advocates met its statutory responsibility to analyze the Application and record and to actively engage with Ponderosa, as required by D.15-06-048. Cal Advocates timely filed its protest to

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<sup>22</sup> Rule 12.5 states: "Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding."

Ponderosa's Application, participated in the December 14, 2022, PHC and attended the PPH held on February 8, 2023, to obtain comments and feedback from Ponderosa's customers. Cal Advocates carefully scrutinized Ponderosa's served testimony and served discovery/data requests upon Ponderosa to examine the issues raised by the Application and testimony. Cal Advocates also served testimony of its own witnesses, who provided thoughtful analysis. Cal Advocates' work in this proceeding was helpful and persuasive, and its effective advocacy in this proceeding is a significant factor in the ALJ's recommendation that the Settlement Agreement be adopted by the Commission.

**10.3. The Record Supports that the Settlement is in the Public Interest and Goals of Environmental Social Justice Action Plan (ESJAP)**

The proposed settlement is in the public interest and furthers the goals of the Commission's ESJAP. Originally adopted in February 2019, the ESJAP represents the Commission's commitment to further principles of Environmental Social Justice (ESJ) and to establish a framework to integrate ESJ considerations throughout the Commission's work. The ESJAP includes goals related to health and safety, consumer protection, program benefits, and enforcement in sectors regulated by the Commission.

The Settlement Agreement is in the public interest and furthers the goals of the ESJAP because it will allow Ponderosa to make further investments in its broadband-capable network, expanding access to broadband services in a highly rural and low-income area in California that is historically unserved or underserved.

Second, the Settlement Agreement obligates Ponderosa's ISP affiliate - Cablevision - to establish an Internet access product offering available to low-



income customers which, when combined with existing federal support for low-income broadband access, will result in an affordable effective rate of \$15 per month for high-speed access to the Internet for eligible low-income customers.

Third, the Settlement Agreement requires Cablevision to engage in a broadband adoption plan such that significant percentages of Ponderosa's subscribers will also be subscribing to Internet access at speeds of 25/3 Mbps or greater. The Settlement Agreement will provide these benefits to Ponderosa's customers, including low-income customers, without imposing economic and environmental impacts that are contrary to the Commission's ESJAP.<sup>23</sup>

The settlement further benefits the public by ensuring that:

- (1) Ponderosa's CHCF-A subsidy draw for the 2024 TY is reasonable;
- (2) Ponderosa's residential and business customers will pay rates that are reasonably comparable to the rates that urban customers pay, pursuant to Pub. Util. Code § 275.6(c)(3), and (3) by requiring Cablevision to adopt new requirements relating to service quality, safety and project reporting that will benefit Ponderosa's customers and ratepayers in general.

The settlement is reasonable and serves the public interest by resolving competing concerns in a collaborative and cooperative manner. By reaching agreement, the parties have also avoided the costs of extended litigation.

## **11. Safety Considerations**

We have considered the potential safety implications of the Settlement Agreement and are satisfied that the intrastate revenue requirement approved in this decision will help Ponderosa meet the Commission's minimum safety goals and expectations for small local exchange telecommunications companies and/or

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<sup>23</sup> Settlement Agreement at 5-7.

carriers, and as a public utility that is required 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,” pursuant to Pub. Util. Code § 451.

## **12. Request to Admit Testimony**

On July 28, 2023, Ponderosa and Cal Advocates filed a “Joint Motion Of The Public Advocates Office and The Ponderosa Telephone Co. To Move Testimony Into The Record Under Rule 13.8(c)” (July Motion Regarding Testimony). The July Motion Regarding Testimony pertains to testimony of witnesses who were not cross-examined when the parties decided to forego the evidentiary hearing to discuss settlement, and thus seeks to have previously served testimony admitted into the record of this proceeding, without waiving the right to object to such testimony or to cross-examine witnesses sponsoring the testimony in the event the Commission rejects or modifies the terms of the parties’ Settlement Agreement. Based on the agreement of the parties and finding good cause, we admit the witness and expert testimony and exhibits delineated on pages 1-6 of the July Motion Regarding Testimony by the Ponderosa witnesses mentioned earlier, as well as responding testimony by Cal Advocates witnesses Christopher Bartulo, Chrystian Villarreal, Bixia Ye and Benny Corona and rebuttal testimony by Ponderosa witnesses Derrick Todd Westfall, Larry Thompson and Chad Rupe.

### **13. Confidential Testimony and Materials Under Seal**

The parties submitted certain reports, exhibits and testimony designated as “confidential.”<sup>24</sup> The marking of these reports, exhibits and testimony as “confidential” is deemed to be a request by each party for leave to file those reports and testimony under seal pursuant to Rule 11.4. The disclosure of confidential reports, materials and recommendations, sensitive financial data, operational and other privileged information could place the moving party in serious disadvantage or at unfair business disadvantage. In considering whether it is appropriate to redact any figures, the Commission considers whether the public interest served by nondisclosure outweighs the public interest served by disclosure. Accordingly, the requests to place these materials under seal pursuant to Rule 11.4 are granted as set forth in the Ordering Paragraphs below, with the exception that the figures herein and those on Ponderosa’s Intrastate Results of Operations should be made public and unredacted. Pub. Util. Code § 275.6(e) does not warrant confidential treatment of this information. .<sup>25</sup>

### **14. Categorization and Need for Hearing**

In Resolution ALJ 176-3516, dated October 20, 2022, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. This decision confirms the categorization.

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<sup>24</sup> On October 4, 2022, Ponderosa filed a motion to seal confidential portions of its Application; on July 28, 2023, Ponderosa filed a motion to file portions of the evidentiary record and information concerning the Joint Motion for Settlement Agreement under seal, and on the same date, Cal Advocates filed a separate motion to seal portions of the evidentiary record.

<sup>25</sup> JMSA at 12. Ponderosa agrees and expressly waives confidential treatment of its CHCF-A test year draw. Ponderosa claims that its net positive broadband revenue imputation figure constitutes a trade secret and request that it not be disclosed.

**15. Comments on Proposed Decision**

The JMSA filed July 28, 2023, resolved Cal Advocates' Protest. This proposed decision grants Ponderosa's and Cal Advocates' JMSA. Therefore, this is now an uncontested matter in which the proposed decision grants the relief requested. Accordingly, pursuant to § 311(g)(2) and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

**16. Assignment of Proceeding**

Darcie L. Houck is the assigned Commissioner and Margery Melvin is the assigned ALJ in this proceeding.

**Findings of Fact**

1. On October 3, 2022, Ponderosa filed this GRC Application seeking to update its intrastate rates and charges, intrastate revenue requirement, establish a rate design and its draw from the CHCF-A.
2. Cal Advocates filed its protest to the Application on November 2, 2022.
3. Ponderosa and Cal Advocates served testimony of witnesses prepared to testify in support of their respective positions.
4. Ponderosa and Cal Advocates engaged in significant discovery and data exchange, analysis of each other's positions and arguments after which substantive settlement negotiation occurred between the parties.
5. On June 21, 2023, Ponderosa and Cal Advocates held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b), after which they arrived at an All-Party Settlement Agreement (Settlement Agreement) resolving all issues in this proceeding.
6. On July 28, 2023, Ponderosa and Cal Advocates filed a Joint Motion for adoption of their Settlement Agreement.

7. The Settlement Agreement conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

8. The Settlement Agreement, if approved, resolves all issues in Ponderosa's GRC Application.

9. Pursuant to Rule 11.4, the parties have requested to file under seal confidential materials, including reports, work papers and testimony.

### **Conclusions of Law**

1. Ponderosa and Cal Advocates' Joint Motion for Adoption of their Settlement Agreement (APPENDIX 1 to this decision) should be granted because the Settlement Agreement meets the Commission's standards of review for settlement.

2. The Settlement Agreement between the parties complies with Rule 12.1(d) and is reasonable in light of the record, consistent with law and in the public interest, because it affords Ponderosa the opportunity to provide "adequate, efficient, just, and reasonable service" in a way that promotes the "safety, health, comfort, and convenience of [their] patrons, employees, and the public."

3. Ponderosa's proposed rate design, set forth in the Settlement Agreement, is reasonable and should be granted subject to the terms set forth in the Settlement Agreement.

4. The Settlement Agreement's requirements relating to dealings with its affiliates and Ponderosa's service quality, safety and project reporting are reasonably designed to lead to greater accountability and benefits to ratepayers and should be adopted.

5. The Settlement Agreement provides for a tariffed residential basic rate of \$26.50. The basic rate, after adding Ponderosa's calculations of the fees and

surcharges, is within the range of reasonableness required to qualify for CHCF-A support and should be adopted.

6. The Settlement Agreement provides for a tariffed business rate of \$38.10, which is reasonable and should be adopted.

7. Ponderosa shall provide broadband service at the maximum available speed at the subscriber's location, up to 100 Mbps download and 20 Mbps upload, to eligible low-income customers for a price of \$45 per month as agreed upon in the Settlement Agreement.

8. Ponderosa shall execute a strategic broadband adoption plan over a four-year period as agreed upon in the Settlement Agreement.

9. The intrastate revenue requirement of \$12,850,973 agreed to by the parties, which includes a CHCF-A subsidy draw of \$4,429,975, is reasonable and supported by the record in this proceeding and should therefore be approved.

10. Ponderosa should be required to submit a Tier 2 advice letter recalculating its revenue requirement in accordance with any instructions provided by the Commission within 30 days of any revision or annulment to D.16-12-035 resulting in adjustments to the 8.44 percent cost of capital agreed to and utilized in the Settlement Agreement to calculate Ponderosa's intrastate revenue requirement and CHCF-A subsidy draw. The resulting revenue requirement should be implemented upon approval of the recalculated revenue requirement by the Commission's Director of Communications Division, or after 30 days have expired following Ponderosa's recalculation of its revenue requirement in accordance with the instructions provided by the Commission and submission of the Tier 2 advice letter to the Commission.

11. It is reasonable to adopt Ponderosa and Cal Advocates' proposed Results of Operations for test year 2024, consistent with established and historical

General Rate Case processes practiced by all Commission industry divisions, including the Communications Division.

12. The CHCF-A support for Test Year 2024 should be the CHCF-A amount agreed and adopted by the parties in the Settlement Agreement.

13. Within five days after the issuance of this decision, Ponderosa should file a Tier 2 compliance Advice Letter with the Communications Division with revised tariff schedules that implement the Settlement Agreement. The Advice Letter should be effective for tariffs and services rendered as of January 1, 2024. Within seven days of the date that the advice letter is effective, Ponderosa should notify its customers of the revised tariffs and rates.

14. It is appropriate to authorize Ponderosa to submit a Tier 2 Advice Letter to the Commission's Communications Division within 30 days of the effective date of this decision to request any revenue differential between January 1, 2024, and the first day of the next month (resulting from the decision not being approved as of January 1, 2024), following the adoption of this decision (effective date), through the CHCF-A Fund. The Advice Letter should provide a calculation to "true-up" the revenue differential.

15. The parties' requests to file under seal, confidential materials, including confidential work papers, exhibits and testimony discussed in Section 13 above, should be granted for three years, with the exception that the figures discussed within this Decision and those in Ponderosa's Intrastate Results of Operations should be made public and unredacted.

16. All pending motions in this proceeding not specifically addressed in this decision, or previously addressed, should be denied as moot.

**O R D E R****IT IS ORDERED** that:

1. The July 28, 2023, Joint Motion by the Public Advocates Office of the California Public Utilities Commission and Ponderosa Telephone Company (U1014C) requesting the Commission's Adoption of the All-Party Settlement Agreement in Application 22-10-004 is granted pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure.

2. The Commission adopts a California High-Cost Fund -A support amount of \$4,429,975 for 2024, and the figures shown in Attachment A to the Settlement Agreement as the Ponderosa Telephone Company's 2024 Results of Operations for all purposes, consistent with established and historical general rate case processes practiced by all Commission Industry Divisions, including Communications Division.

3. If D.16-12-035 is annulled or revised, any resulting adjustments to cost of capital should be applied to the Ponderosa Telephone Company (Ponderosa) based on the instructions from the Commission or a reviewing court. Accordingly, within 30 days of any revision or annulment to D.16-12-035 resulting in adjustments to 8.44 percent cost of capital agreed-to and utilized in the Settlement Agreement (to calculate Ponderosa's intrastate revenue requirement and California High Cost Fund-A subsidy draw) Ponderosa shall submit a Tier 2 advice letter recalculating its revenue requirement in accordance with the instructions provided by the Commission or a reviewing court. The resulting recalculated revenue requirement shall be implemented after 30 days of Ponderosa's recalculation of its revenue requirement in accordance with the instructions provided by the Commission or a reviewing court and submission of the Tier 2 advice letter to the Commission, or upon the approval of the Director



of the Commission's Communication Division of the recalculated revenue requirement, whichever occurs first.

4. All testimony served in this proceeding is admitted into the record of this proceeding.

5. The provisions of this Settlement Agreement shall not be construed as precedent and in no way bind the Commission.

6. The Commission shall have exclusive jurisdiction over all issues related to this Settlement Agreement.

7. Confidential materials shall be placed under seal for three years from the date of this decision and shall not be publicly disclosed except on further Commission order or by an Administrative Law Judge ruling. If the parties believe that it is necessary for this information to remain under seal for longer than three years, the parties may file new motions showing good cause for extending this order by no later than 30 days before the expiration of this order.

8. All pending motions in this proceeding that are not specifically addressed in this decision, or previously addressed in this proceeding, are denied.

9. Within five days of the issuance of this decision, Ponderosa Telephone Company shall file a Tier 1 compliance Advice Letter with the Communications Division with revised tariff schedules that implement the Settlement Agreement. The advice letter should be effective for tariffs and services rendered as of January 1, 2024. Within seven days of the date that the advice letter is effective, Ponderosa Telephone Company shall notify its customers of the revised tariffs and rates.

10. Ponderosa Telephone Company is directed to submit a Tier 2 Advice Letter to the Communications Division within 30 days of the effective date of this decision to request any revenue adjustment through the California High-Cost

Fund-A, resulting from the decision not being approved as of January 1, 2024.

The Advice Letter should provide a calculation to “true-up” the revenue differential for the Test Year 2024.

11. Application 22-10-004 is closed.

This order is effective today.

Dated \_\_\_\_\_, 2023, at Sacramento, California.

## Attachment 1:

Joint Motion for Adoption of All-Party Settlement Agreement with attachment:

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M515/K314/515314708.PDF>