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

In the Matter of Application of The Ponderosa
Telephone Co. (U 1014 C) to Modify
Intrastate Revenue Requirement and Rate
Design and Adjust Selected Rates.

A.22-10-004
(Filed October 3, 2022)

**PUBLIC JOINT MOTION FOR ADOPTION OF ALL-PARTY
SETTLEMENT AGREEMENT**

Sean P. Beatty
BRB Law LLP
436 14th Street, Suite 1205
Oakland, CA 94612
Telephone: (510) 955-1083
Email: sean@brblawgroup.com

Attorneys for
The Ponderosa Telephone Co.

Joshua Tey
Carolyn Chen
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (213) 576-7074
Email: joshua.tey@cpuc.ca.gov

Attorneys for
Public Advocates Office

July 28, 2023

I. INTRODUCTION.

Pursuant to Rule 12.1 of the Commission's Rules of Practice and Procedure (“Rules”), The Ponderosa Telephone Co. (U 1014 C) (“Ponderosa”) and the Public Advocates Office of the California Public Utilities Commission (“Cal Advocates”) (collectively, the “Parties”) move that the Commission approve the settlement agreement fully executed on July 26, 2023 between Ponderosa and Cal Advocates that resolves Ponderosa's rate case in its entirety (“Settlement Agreement”). Ponderosa and Cal Advocates are the only parties to this proceeding.¹ A copy of the Settlement Agreement is attached to this joint motion as Exhibit 1.

The Settlement Agreement reflects the agreed-upon resolution of Ponderosa's rate case. Ponderosa and Cal Advocates submit that the attached Settlement Agreement is reasonable in light of the whole record, consistent with the law and in the public interest. This Settlement Agreement therefore meets the standard under Rule 12.1(d) and should be adopted by the Commission as a full resolution of the issues in this proceeding.

II. PROCEDURAL BACKGROUND.

On August 2, 2022, Ponderosa submitted a Notice of Intent to initiate this rate case, consistent with Decision (D.) 15-06-048. On August 23, 2022, Ponderosa responded timely to the “Minimum Data Requests” issued by Cal Advocates. On October 3, 2022, Ponderosa filed its formal general rate case application (“Application”) seeking an increase to its intrastate revenue requirement and corresponding modifications to its California High Cost Fund A (“CHCF-A”) draw. Contemporaneous with the Application, Ponderosa served direct testimony from seven separate witnesses supporting the relief sought in the Application. Ponderosa provided customers with timely public notice of the Application pursuant to Rule 3.2(c) and Rule 3.2(d). Ponderosa also provided notice to the California Attorney General and appropriate municipal representatives, as required by Rule 3.2(b). On October 20, 2022, in Resolution ALJ 176-3516, the Commission preliminarily designated this proceeding as ratesetting.

¹ Cal Advocates has authorized Ponderosa to file this motion on its behalf, pursuant to Rule 1.8(d).

On November 2, 2022, Cal Advocates filed its protest to the Application. Cal Advocates' protest identified several substantive areas of dispute and potential dispute in 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.

On December 14, 2022, the assigned administrative law judge held a virtual Pre-Hearing Conference ("PHC"). A virtual Public Participation Hearing took place on February 8, 2023. An Assigned Commissioner's Scoping Memo and Ruling was issued on March 28, 2023 ("Scoping Ruling"). The Scoping Ruling confirmed the categorization of the proceeding as ratesetting and adopted a procedural schedule for the proceeding, which would include hearings.

In preparing its testimony, Cal Advocates issued – and Ponderosa responded to – eight sets of detailed data requests, in addition to the "Minimum Data Requests" issued before the Application was submitted. Cal Advocates conducted a site visit to Ponderosa on March 20, 2023. Cal Advocates served its responsive testimony on April 21, 2023.

Ponderosa served rebuttal testimony on May 22, 2023.

On June 19, 2023, the Parties informed the assigned administrative law judge that they had reached a settlement, and the Parties asked that the hearing dates be taken off calendar. On June 21, 2023, Cal Advocates and Ponderosa held a duly-noticed all-party settlement conference in compliance with Rule 12.1(b).² The Parties bring this joint motion and the associated Settlement Agreement to seek Commission adoption of the Settlement Agreement as a final resolution of this matter.

III. SUMMARY OF SETTLEMENT AGREEMENT.

As a result of their negotiations, Ponderosa and Cal Advocates have agreed upon terms that would settle all outstanding disputed issues in this proceeding.

² The notice for the settlement conference was sent on June 19, 2023. Although this is fewer than seven days in advance of the June 21, 2023 settlement conference, as the only two parties to this proceeding, Cal Advocates and Ponderosa agreed to reduce the time for service.

1. Rate of return: For purposes of calculating revenue requirement based on the assumptions in Ponderosa's application, the Parties agree to an assumed 8.44% rate of return in presenting their revenue requirement figures. The Parties further agree that the revenue requirement that the Commission adopts for the 2024 test year should reflect the results of the cost of capital that the Commission will adopt in A.22-09-003.

2. Revenue requirement: Based on the assumed 8.44% rate of return, the Parties agree to a revenue requirement in the amount of \$12,850,973. 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 that the Commission ultimately adopts in A.22-09-003 according to the following formula:

$$\text{Revenue requirement} = \$12,850,973 - (\$2,592,754 \text{ \{current return\} } \times 1.38857) + (\$30,719,838 \text{ \{rate base\} } \times \text{new cost of capital percentage} \times 1.38857).$$

Within 30 days of the issuance of a final decision in A.22-09-003, Ponderosa 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 the effective date of the Cost of Capital Final Decision.

3. End user rates and rate design:

- (i) Ponderosa's tariffed basic, residential rates will be modified to \$26.50, exclusive of any surcharges, fees, or taxes, effective January 1, 2024.
- (ii) Ponderosa's tariffed business rates will be modified to \$38.10, exclusive of any surcharges, fees, or taxes, effective January 1, 2024.
- (iii) Ponderosa's rate design will be comprised of the following forecasted revenues:
 - (1) \$2,898,248 in Local Network Services revenues.
 - (2) \$3,795,998 in Interstate Universal Service Fund support for intrastate revenue requirement.

- (3) \$331,003 in intrastate special and switched access revenues.
- (4) \$109,484 in miscellaneous and uncollectible revenues.
- (5) <<START CONFIDENTIAL [REDACTED] END CONFIDENTIAL>> of revenue imputed from Ponderosa's Internet service provider ("ISP") affiliate as mandated by D.21-04-005.
- (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 8.44% cost of capital and the imputation of revenue from Ponderosa's ISP affiliate, the CHCF-A draw would be <<START CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>.

4. Custom Calling and Voicemail. Ponderosa will include certain custom calling features and voicemail service with the residential and business basic service offerings at no additional charge.

5. Low-Income Broadband Rate Plan. Within 30 days after Commission approval of this Settlement Agreement and through issuance of a Commission decision resolving Ponderosa's next general rate case, Ponderosa will cause its ISP affiliate to undertake the following:

- (i) Offer a 100 megabits per second ("Mbps") download/100 Mbps upload broadband service to eligible low-income customers to whom fiber facilities have been deployed at the rate of \$45 per month. For purposes of this service offering, "eligible low-income customer" shall mean an individual who has been designated as eligible under the LifeLine program or under the Federal Communications Commission's Affordable Connectivity Program ("ACP");
- (ii) For eligible low-income customers to whom fiber facilities are not available and only broadband service over copper digital subscriber line ("DSL") facilities is available, charge \$45 per month for a broadband service at the maximum available speed at the subscriber's location up to 100 Mbps download/20 Mbps upload.
- (iii) The price to be paid by eligible low-income customers shall be an effective rate of \$15/month. In the event the ACP is altered or ended,

the Parties shall meet to discuss solutions to retain the low-income subscriber service offering that allows low-income subscribers to pay an effective rate of \$15 per month for the broadband service.

6. Broadband Service Quality Tracking and Reporting. Beginning January 1, 2024, Ponderosa will undertake the following or cause its ISP affiliate to undertake the following, as applicable:

- (i) Ponderosa shall track the availability of broadband-level speeds over its broadband-capable network. Ponderosa shall track the percent of Ponderosa's network availability for broadband-level speeds over the course of each calendar year for its entire broadband-capable network. Availability of broadband-level speeds shall also be tracked for each census block in Ponderosa's service area. Ponderosa shall report this information on an annual basis in conjunction with an appropriately-timed report submitted under General Order 133-D.
- (ii) Ponderosa's ISP affiliate shall track the following information pertaining to the service quality of its retail broadband service offering which shall be reported in conjunction with an appropriately-timed report by Ponderosa submitted under General Order 133-D:
 - (1) Monthly broadband trouble tickets totals (reported annually).
 - (2) Monthly total of broadband subscribers (reported annually).
 - (3) Data on broadband service outages (reported annually). For each broadband service outage experienced during the calendar year, Ponderosa's ISP affiliate shall track the following: (a) number of customers affected; (b) type of customers affected (residential, small business, or large business); (c) date of outage; (d) time at which outage occurred; (e) duration of outage in total minutes; (f) outage restoration time; (g) location of outage (county, city and census block(s)); (h) type of equipment failed; (i) nature of network involved (copper or fiber); (j) description of the cause of the outage; (k) description of the incident; (l) methods used to restore the outage; (m) steps taken to prevent the outage from re-occurring.
 - (4) Average service installation intervals (per month) for orders of new broadband service installations (reported annually). Service installation intervals should be expressed in business

days between the date the service order was placed and the date the service becomes operational. This data should exclude all orders having customer requested appointments later than the provider's commitment dates.

- (5) The total number of broadband service orders received, and the number of those orders completed, per month (reported annually).
- (6) Customer-initiated complaints regarding Ponderosa's ISP affiliate's broadband service in California. This data shall include: (a) type of complaint (e.g., billing with further detail regarding nature of billing dispute, delayed orders/missed appointments, customer service, refusal to service, availability/service outages, equipment, interference, privacy, speed); (b) type of customer (residential, small or large sized business); (c) date of complaint; (d) resolution time for a complaint; (e) customer location (county, city and census block); (f) frequency of complaint by the same customer.

7. Broadband Adoption. Ponderosa's ISP affiliate 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.

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

As an element of the strategic broadband adoption plan, Ponderosa shall submit to Cal Advocates a bi-annual (twice a year) report showing progress with adoption rates. The report shall include the following information:

- (a) Number of households with access to various broadband speeds.
- (b) Number of subscribers for each broadband plan by speed.

- (c) Number of low-income customers with access to various broadband speeds.
- (d) Number of low-income customers subscribed to each broadband plan by speed.

Ponderosa shall meet with Cal Advocates to discuss the bi-annual report. Within sixty (60) days after the execution of this Settlement Agreement, Ponderosa shall provide information for items (a)-(d), above as of year-end 2022.

IV. THE SETTLEMENT AGREEMENT IS REASONABLE, LAWFUL, AND IN THE PUBLIC INTEREST.

To obtain Commission approval of a settlement, parties must demonstrate that the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. *See* Rule 12.1(d). In evaluating settlements, the Commission has consistently recognized a strong public policy in California favoring settlements and avoiding litigation. *See* D.14-08-009, at 16; D.12-11-043, at 7; D.15-07-014, at 14-15, 21. The Settlement Agreement satisfies all three requirements of Rule 12.1(d), and the Commission should adopt it.

A. The Settlement Agreement Is Reasonable In Light of the Whole Record.

The terms of the Settlement Agreement are reasonable in light of the whole record. The Settlement Agreement is a mutually agreeable compromise between two parties with divergent positions, each of whom has zealously advocated for its positions. The Parties agreed to the Settlement Agreement at an advanced stage in this rate case proceeding and only after testimony, extensive discovery, and the Parties' thorough examination of key issues were completed. This has ensured that a significant record exists upon which to base the settlement and recommended resolution of the proceeding.

Cal Advocates tested the validity of Ponderosa's Application and testimony with detailed sets of data requests, including specific questions, many with multiple subparts. Ponderosa responded to the requests for information. In sum, the experience and knowledge of the Parties, in addition to, the breadth and thoroughness of discovery in this case, facilitated well-informed settlement discussions and resulted in a reasonable Settlement Agreement. The Parties' mutual

endorsement of the Settlement Agreement, in spite of the significant differences in the Parties' initial positions, further attests to its reasonableness.

The specific terms of the Settlement Agreement are also reasonable in light of the record. First, the overall revenue requirement is approximately \$802,902 lower than the revenue requirement that Ponderosa requested in its rate case application, and is \$601,451 higher than Cal Advocates' proposed revenue requirement, using 8.44% rate of return as the input for deriving the return portion of the revenue requirement. *See* Exhibit 2 (document entitled "Comparison of Parties' Positions and Settlement Terms") and Exhibit 3 (comparison Result of Operations table). Second, the Parties have agreed to defer an ultimate determination on cost of capital to another ongoing proceeding. The Parties have agreed upon a reasonable formula to adjust revenue requirement when the Commission adopts a new cost of capital in A.22-09-003. Third, the end user rate proposals reflect a compromise of the Parties' positions and will result in more local service revenue for Ponderosa while keeping end user rates within the Commission's range of reasonableness, as most recently established in D.21-06-004. Fourth, the resulting CHCF-A draw is \$967,803 lower than the amount that Ponderosa proposed in its rate case application, and \$829,942 higher than what Cal Advocates had proposed, a result that is close to the middle of the two proposals. Fifth, the requirement to establish an affordable broadband rate for low-income households in Ponderosa's service area is a significant benefit for ratepayers. Sixth, the requirement to undertake a broadband adoption plan as well as to track and report regarding specified broadband service quality metrics will help ensure that ratepayers benefit more fully from the new fiber plant that Ponderosa will construct.

B. The Settlement Agreement is Consistent with Applicable Law.

The Settlement Agreement is also consistent with applicable law. It is well-established that in resolving rate cases, the Commission must apply rate-of-return regulation to provide utilities the opportunity to earn a reasonable rate of return. *Duquesne Light Co. v. Barasch*, 488 U.S. 299 (1989); Pub. Util. Code §275.6(b). Specifically, the Commission must:

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.

Pub. Util. Code §275.6(c)(2).

As such, ratesetting for small independent telephone companies begins with the determination of a reasonable “revenue requirement.” “Revenue requirement” is defined as “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.” Pub. Util. Code §275.6(b)(5). The revenue requirement agreed upon in the Settlement Agreement incorporates each of these cost factors to yield a total intrastate revenue requirement of \$12,850,973.

Once “revenue requirement” is established, the Commission “then fashions a rate design to provide the company a fair opportunity to meet the revenue requirement.” Pub. Util. Code §275.6(b)(4). Under the Public Utilities Code, “rate design” means “the mix of end user rates, high-cost support, and other revenue sources that are targeted to provide an opportunity to meet the revenue requirement of the telephone corporation.” Pub. Util. Code §275.6(b)(3). The Settlement Agreement rate design includes approximately \$2,898,248 in local network service revenues derived from end users; \$3,795,998 in Interstate Universal Service Fund support for intrastate revenue requirement;³ \$331,003 in intrastate special and switched access revenues; and \$109,484 in other miscellaneous and uncollectable revenues.

In addition, the rate design in the Settlement Agreement includes a CHCF-A draw amount of <<START CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>, which includes a reduction of <<START CONFIDENTIAL [REDACTED] END CONFIDENTIAL>> imputed from

³ The amount of test year Interstate Universal Service Fund support will be updated after October 1, 2023 when the National Exchange Carrier Association issues the projected amount of such support for 2024. The amount of Interstate Universal Service Fund support will result in a dollar for dollar adjustment to Ponderosa’s test year CHCF-A draw.

Ponderosa's ISP affiliate as mandated by D.21-04-005. CHCF-A support must be supplied "in an amount sufficient to supply the portion of the revenue requirement that cannot reasonably be provided by the customers of each small independent telephone corporation after receipt of federal universal service rate support." Pub. Util. Code §275.6(c)(4). The Parties agree that the end user rates and resulting revenue projections from those rates are reasonable, and that the Commission should not adopt higher rates at this time. The CHCF-A draw amount agreed upon in the Settlement Agreement is sufficient and not excessive because it is no greater than necessary to fulfill the portion of Ponderosa's reasonable revenue requirement that cannot reasonably be fulfilled by end users. Pub. Util. Code §275.6(c)(7).

The Settlement Agreement also complies with other relevant state and federal policy objectives that inform how the Commission should establish a revenue requirement for a small, rate-of-return telephone company. The California Legislature has directed the Commission to "[promote] customer access to advanced services and deployment of broadband-capable facilities in rural areas that is reasonably comparable to that in urban areas...." Pub. Util. Code §275.6(c)(5). The agreed-upon revenue requirement and rate base are crafted to ensure that customers have access to advanced services of their choice over a safe, reliable, high-quality broadband-enabled network.

Ponderosa's end user rates as agreed upon in the Settlement Agreement are "just and reasonable" and are "reasonably comparable to rates charged to customers of urban telephone corporations," pursuant to Public Utilities Code 275.6(c)(3). Per D.21-06-009, small incumbent local exchange carriers' residential basic rates must be set within the range of \$30.00 to \$40.00, inclusive of federal and state fees and surcharges. The Settlement Agreement agrees to residential basic rates of \$36.59 inclusive of fees and surcharges—a rate amount that falls squarely inside the "range of reasonableness."

C. The Settlement Agreement is in the Public Interest.

The public interest supports adoption of the Settlement Agreement. To the Parties' knowledge, no customer has contacted Ponderosa, Cal Advocates or the Commission's Public

Advisor in response to the Application to object to the relief sought in Ponderosa's Application. As discussed above, Cal Advocates, the organization charged with protecting residential and small business customer interests, has reviewed and analyzed the Application, and agrees to the settlement terms. The Parties agree that under the Settlement Agreement, Ponderosa will be able to generate revenues sufficient for it to maintain a reasonable level of plant investment and service quality, and also service its debt and provide a reasonable return for its shareholders.

In further support of adoption of the Settlement Agreement as consistent with the public interest, the record demonstrates that Ponderosa has agreed to track and report its broadband service quality metrics and to cause its ISP affiliate to track service quality metrics related to the retail provision of Internet access.

The Scoping Ruling issued on March 28, 2023 in this proceeding also raised the question whether Ponderosa's rate case Application implicated the Commission's Environmental Social Justice Action Plan (ESJAP), and if so, whether the objectives of the ESJAP are met. 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. In furtherance of "Goal 1" of the ESJAP, the Commission has endeavored to scope ESJ issues into most or all proceedings. Given the Commission's stated preferences as reflected in Goal 1 of the ESJAP, neither Ponderosa nor Cal Advocates contest a conclusion that the Application raises issues pertinent to the ESJAP and that such issues are within the scope of this proceeding.

The Settlement Agreement furthers the goals in the ESJAP. First, the Settlement Agreement 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. Second, the Settlement Agreement obligates Ponderosa's ISP affiliate 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 Ponderosa's ISP affiliate 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.

For all of these reasons, the Settlement Agreement will promote public welfare by helping ensure that Ponderosa can provide high-quality service over a safe, reliable, modern network. It is in the public interest and the Commission should adopt the Settlement Agreement as filed.

V. CONFIDENTIALITY ISSUES RAISED BY BROADBAND IMPUTATION.

The revenues generated by Ponderosa's ISP affiliate are subject to confidential protection under Public Utilities Code Section 275.6(e). Those ISP affiliate revenues are a necessary component of Ponderosa's Application by virtue of the Commission's mandate that Ponderosa impute those revenues into its rate design. *See* D.21-04-005. Throughout this rate case, Ponderosa has consistently designated as confidential its ISP affiliate's revenues as well as other financial numbers, arguing that revealing these financials could enable a third-party to discern Ponderosa's ISP affiliate's revenues through simple reverse engineering of figures. As such, Ponderosa has designated its proposed test-year draw from the CHCF-A as confidential, because it maintains that knowledge of Ponderosa's CHCF-A draw might allow a third-party to calculate the confidential imputed broadband revenues used in the Application.

Ponderosa recognizes the difficulty created for the Commission by Ponderosa's confidential designation of its CHCF-A test-year draw. Cal Advocates maintains that draws from the CHCF-A are subject to the state budget process and receive extensive scrutiny. With those considerations in mind, Ponderosa has agreed to waive its request for confidential treatment of the amount of its CHCF-A test-year draw. Ponderosa bases this decision on the fact that the ISP affiliate's broadband revenues used in this case date back to 2021 and will be approximately two years old

when the Commission issues a decision in this proceeding. To be clear, Ponderosa does not waive confidentiality as to its ISP affiliate's broadband revenues but does waive confidentiality as to the amount of Ponderosa's CHCF-A test-year draw.

VI. CONCLUSION.

Based on the foregoing, the Parties respectfully request that the Commission grant this joint motion and adopt the Settlement Agreement in its entirety as the final resolution of Ponderosa's rate case filing for the 2024 test year. The Settlement Agreement is reasonable considering the advanced stage of litigation the Parties completed, the extensive and in-depth quality of discovery, and the fact that the Parties overcame significant differences to arrive at this mutually agreeable result. The Settlement Agreement is also consistent with the law and in the public interest, and therefore, the Commission should adopt it.

Dated this 28th day of July, 2023.⁴

Sean P. Beatty
BRB Law LLP
436 14th Street, Suite 1205
Oakland, CA 94612
Telephone: (510) 955-1083
Email: sean@brblawgroup.com

By: /s/ Sean P. Beatty
Sean P. Beatty
Attorneys for The Ponderosa Telephone Co.

⁴ Pursuant to Rule 1.8(d), counsel for Ponderosa is authorized sign this pleading on behalf of the Parties.

Exhibit 1

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

In the Matter of Application of The Ponderosa
Telephone Co. (U 1014 C) to Modify
Intrastate Revenue Requirement and Rate
Design and Adjust Selected Rates.

A.22-10-004
(filed October 3, 2022)

CONFIDENTIAL SETTLEMENT AGREEMENT

This Settlement Agreement is entered into as of July 26, 2023, by and between Applicant The Ponderosa Telephone Co. ("Ponderosa") and the Public Advocates Office at the California Public Utilities Commission ("Cal Advocates") in accordance with Article 12 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"). Ponderosa and Cal Advocates may be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, on October 3, 2022, Ponderosa filed a general rate case application ("Application") seeking an increase in its intrastate revenue requirement and an increase to its draw from the California High Cost Fund A ("CHCF-A"), and modifications to selected rates;

WHEREAS, on November 2, 2022, Cal Advocates filed its Protest to the Application opposing certain aspects of Ponderosa's application;

WHEREAS, Ponderosa submitted pre-filed testimony from eight witnesses (opening and rebuttal) addressing the issues raised by the Application;

WHEREAS, Cal Advocates issued a set of minimum data requests prior to the filing of the Application and issued additional detailed sets of data requests and Cal Advocates conducted

a site visit with Ponderosa, all of which furthered Cal Advocates' examination of the issues raised by the Application and allowed it to test the validity of Ponderosa's statements and conclusions. Ponderosa responded to the MDRs and the data requests;

WHEREAS, a Pre-Hearing Conference in this proceeding took place on December 14, 2022;

WHEREAS, a virtual Public Participation Hearing took place on February 8, 2023;

WHEREAS, Cal Advocates served its opening testimony on April 21, 2023;

WHEREAS, evidentiary hearings in connection with the Application were scheduled to begin on June 26, 2023.

WHEREAS, the Parties engaged in substantive settlement discussions starting after Cal Advocates submitted its opening testimony and leading up until execution of this Settlement Agreement;

WHEREAS, on June 21, 2023, the Parties held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b);

WHEREAS, Ponderosa and Cal Advocates have arrived at an agreement resolving all issues, and that this resulting Settlement Agreement 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, Ponderosa and Cal Advocates agree to a resolution of Ponderosa's general rate case Application as follows:

a. Rate of return: For purposes of calculating revenue requirement, the Parties agree to an assumed 8.44% rate of return. The Parties further agree, however, that the revenue requirement to be adopted for the 2024 test year should be updated to reflect the results

of the cost of capital adopted in A.22-09-003.¹ The new rate of return should be implemented through a Tier 2 advice letter and take effect on a prospective basis, in accordance with the agreed-upon process between Ponderosa and Cal Advocates in connection with A.22-09-003.

b. Revenue requirement: Based on the assumed 8.44% rate of return, the Parties agree to an intrastate revenue requirement in the amount of \$12,850,973. The revenue requirement will be updated based on the results of the cost of capital adopted in A.22-09-003 according to the following formula:

$$\text{Revenue requirement} = \$12,850,973 - (\$2,592,754 \text{ \{current return\} } \times 1.38857) + (\$30,719,838 \text{ \{rate base\} } \times \textit{new cost of capital percentage} \times 1.38857).$$

Within 30 days of the issuance of a final decision in A.22-09-003, Ponderosa 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 the effective date of the Cost of Capital Final Decision.

c. End user rates and rate design:

- i. Ponderosa's tariffed basic, residential rates will be modified to \$26.50, exclusive of any surcharges, fees, or taxes, effective January 1, 2024.
- ii. Ponderosa's tariffed business rates will be modified to \$38.10, exclusive of any surcharges, fees, or taxes, effective January 1, 2024.
- iii. Ponderosa's rate design will be comprised of the following forecasted revenues:
 1. \$2,898,248 in Local Network Services revenues.
 2. \$3,795,998 in Federal Universal Service Fund support for intrastate revenue requirement.

¹ Commission decision is expected in the First Quarter 2024.

3. \$331,003 in intrastate special and switched access revenues.
4. \$109,484 in miscellaneous and uncollectible revenues.
5. <<START CONFIDENTIAL [REDACTED] END CONFIDENTIAL>> of revenue imputed from Ponderosa's Internet service provider ("ISP") affiliate as mandated by D.21-04-005.
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 8.44% cost of capital and the imputation of revenue from Ponderosa's ISP affiliate, the CHCF-A draw would be <<START CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>.

d. Custom Calling and Voicemail for Residential and Business Customers.

Ponderosa's tariff will be updated to eliminate charges for the following services and to include such services at zero charge with the residential and business monthly basic service offering:

- i. Call Forwarding
- ii. Call Waiting
- iii. Three - Way Calling
- iv. Speed Calling
- v. Toll Restriction
- vi. Remote Access to Call Forwarding
- vii. Warm Line
- viii. Teen Service
- ix. Automatic Redial
- x. Selective Call Forwarding
- xi. Selective Call Acceptance
- xii. Selective Call Rejection

- xiii. Priority Ringing
- xiv. Anonymous Call Rejection
- xv. Call ID Blocking
- xvi. Caller ID
- xvii. Calling Name and Number
- xviii. Call Trace
- xix. Call Return
- xx. Automatic Redial
- xxi. Voicemail

e. ISP Affiliate: Low-Income Broadband Rate Plan. For the period 30 days following Commission approval of this Settlement Agreement through the issuance of a Commission decision resolving Ponderosa's next general rate case application, Ponderosa shall cause its ISP affiliate, Ponderosa Cablevision ("Cablevision"), to undertake the following:

- i. Cablevision shall offer a 100 megabits per second ("Mbps") download/100 Mbps upload broadband service to eligible low-income customers to whom fiber facilities have been deployed at the rate of \$45 per month. For purposes of this service offering, "eligible low-income customer" shall mean an individual who has been designated as eligible under the LifeLine program or under the Federal Communications Commission's Affordable Connectivity Program ("ACP").
- ii. For eligible low-income customers to whom fiber facilities are not available and only broadband service over copper digital subscriber line ("DSL") facilities is available, Cablevision shall charge \$45 per month for a broadband service at the maximum available speed at the subscriber's location up to 100 Mbps download/20 Mbps upload.
- iii. The price to be paid by eligible low-income customers shall be an effective rate of \$15/month. In the event the ACP is altered or ended, the Parties shall meet to discuss solutions to retain the low-income subscriber service offering that allows low-income subscribers to pay an effective rate of \$15 per month for the broadband service.

f. Broadband Service Quality Tracking and Reports.

- i. Beginning January 1, 2024, Ponderosa shall track the availability of broadband-level speeds over its broadband-capable network. Ponderosa shall track the percent of Ponderosa's network availability for broadband-level speeds over the course of each calendar year for its entire broadband-capable network. Availability of broadband-level speeds shall also be tracked for each census block in Ponderosa's service area. Ponderosa shall report this information on an annual basis in conjunction with an appropriately-timed report submitted under General Order 133-D.
- ii. Beginning January 1, 2024, Ponderosa shall cause Cablevision to track the following information pertaining to the service quality of its retail broadband service offering which shall be reported in conjunction with an appropriately-timed report by Ponderosa submitted under General Order 133-D:
 1. Monthly broadband trouble tickets totals (reported annually).
 2. Monthly total of broadband subscribers (reported annually).
 3. Data on broadband service outages (reported annually). For each broadband service outage experienced during the calendar year, Cablevision shall track the following: (a) number of customers affected; (b) type of customers affected (residential, small business, or large business); (c) date of outage; (d) time at which outage occurred; (e) duration of outage in total minutes; (f) outage restoration time; (g) location of outage (county, city and census block(s)); (h) type of equipment failed; (i) nature of network involved (copper or fiber); (j) description of the cause of the outage; (k) description of the incident; (l) methods used to restore the outage; (m) steps taken to prevent the outage from re-occurring.
 4. Average service installation intervals (per month) for orders of new broadband service installations (reported annually). Service installation intervals should be expressed in business days between the date the service order was placed and the date the service becomes operational. This data should exclude all orders having customer requested appointments later than the provider's commitment dates.

5. The total number of broadband service orders received, and the number of those orders completed, per month (reported annually).
6. Customer-initiated complaints regarding Cablevision's broadband service in California. This data shall include:
(a) type of complaint (e.g., billing with further detail regarding nature of billing dispute, delayed orders/missed appointments, customer service, refusal to service, availability/service outages, equipment, interference, privacy, speed); (b) type of customer (residential, small or large sized business); (c) date of complaint; (d) resolution time for a complaint; (e) customer location (county, city and census block); (f) frequency of complaint by the same customer.

g. Broadband Adoption. Cablevision 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.

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

As an element of the strategic broadband adoption plan, Ponderosa shall submit to Cal Advocates a bi-annual (twice a year) report showing progress with adoption rates. The report shall include the following information:

- (a) Number of households with access to various broadband speeds.
- (b) Number of subscribers for each broadband plan by speed.
- (c) Number of low-income customers with access to various broadband speeds.

(d) Number of low-income customers subscribed to each broadband plan by speed.

Ponderosa shall meet with Cal Advocates to discuss the bi-annual report. Within sixty (60) days after the execution of this Settlement Agreement, Ponderosa shall provide information for items (a)-(d), above as of year-end 2022.

h. Depreciation Rates. Without regard to depreciation expense agreed to by the Parties and reflected in the test year results of operations agreed to by the Parties, Ponderosa shall employ the depreciation rates identified in Attachment B.

i. Federal High Cost Loop Support. In the Results of Operations table (Attachment A), Line 1.a.(2), the Parties have agreed to a placeholder amount for test year federal High Cost Fund Support (also referred to as High Cost Loop Support). The amount of test year federal High Cost Fund Support will be identified by the National Exchange Carrier Association (“NECA”) on or around October 1, 2023. The amount of federal High Cost Fund Support identified by NECA on or around October 1, 2023 will be used in place of the amount currently identified on Line 1.a.(2) as well as the dollar-for-dollar change resulting to the CHCF-A amount on Line 1.c in the Results of Operations table.

j. 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, the parties shall attempt to renegotiate the Settlement Agreement before 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. Ponderosa and Cal Advocates 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.

k. 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.

l. 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.

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

n. This Settlement Agreement may be executed in counterparts.

o. 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.

p. This Settlement Agreement resolves all outstanding issues in this proceeding.

q. This Settlement Agreement cannot be amended or changed except by a written amendment signed by both Parties and approved by the Commission.

r. The Parties will file a Joint Motion seeking Commission approval of the Settlement Agreement in its entirety and without change.

s. 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.

PUBLIC ADVOCATES OFFICE AT THE
CALIFORNIA PUBLIC UTILITIES COMMISSION

Dated: July 27, 2023

By: *Chris Ungson*
Chris Ungson
Deputy Director of the Public Advocates Office at
the California Public Utilities Commission

THE PONDEROSA TELEPHONE CO.

Dated: _____

By: _____
Kristann Silkwood Mattes
President
The Ponderosa Telephone Co.

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CALIFORNIA PUBLIC UTILITIES COMMISSION

Dated:

By:

Chris Ungson
Deputy Director of the Public Advocates Office at
the California Public Utilities Commission

THE PONDEROSA TELEPHONE CO.

Dated: **Jul** 2023

By:

President
The Ponderosa Telephone Co.

Attachment A: Ponderosa's Results of Operations Table for Test Year 2024

Line #	Description	Settlement Proposal
1	Total Revenue Sum of Line (1.a + 1.b + 1.c)	\$12,850,973
1.a	Regulated Revenue Sum of Line 1.a.(1) thru 1.a.(6)	\$7,134,733
1.a.(1)	Local Revenue	\$2,898,248
1.a.(2)	High Cost Fund Support	\$3,795,998
1.a.(3)	Intrastate Special Access	\$96,336
1.a.(4)	Intrastate Switch Access	\$234,667
1.a.(5)	Miscellaneous	\$111,369
1.a.(6)	Uncollectible Revenues.	(\$1,885)
1.b	Imputed Broadband Revenue	<<START CONFIDENTIAL>> [REDACTED] <<END CONFIDENTIAL>>
1.c	CHCF-A	<<START CONFIDENTIAL>> [REDACTED] <<END CONFIDENTIAL>>
2	Total Expenses Sum of Line (2.a + 2.b + 3)	\$10,258,219
2.a	Operating Expense Sum of Line 2.a.(1) thru 2.a.(5)	\$9,468,741
2.a.(1)	Plant Specific Operations	\$2,676,984
2.a.(2)	Plant Non-Specific Operations	\$1,762,616
2.a.(3)	Customer Operations	\$445,144
2.a.(4)	Corporate Expense	\$1,282,183
2.a.(5)	Depreciation Expense	\$3,301,814
2.b	Tax (excluding income tax) Sum of Line (2.b.(1) + 2.b.(2))	\$347,011
2.b.(1)	Property Tax	\$347,011
2.b.(2)	Amortized UEDTB	\$0
3	Income Tax Sum of Line (3.c + 3.e)	\$442,467
3.a	Interest Expense (Tax deductible expense only)	\$167,792

3.b	State Taxable Income Sum of Line (1.a + 1.c - 2.a - 2.b - 3.a)	\$1,581,164
3.c	State Income Tax at 8.84%	\$139,775
3.d	Federal Taxable Income Sum of Line (3.b - 3.c)	\$1,441,389
3.e	Federal Income Tax at 21%	\$302,692
4	Rate Base Sum of Line 4.a thru 4.i	\$30,719,838
4.a	Telephone Plant-in-Service	\$110,260,363
4.b	Telephone Plant Under Construction	\$586,452
4.c	Materials & Supplies	\$1,441,860
4.d	Working Cash	\$589,079
4.e	Accumulated Depreciation	(\$81,931,965)
4.f	Deferred Taxes	(\$76,278)
4.g	Post Retirement Benefits	(\$148,002)
4.h	Customer Deposits	(\$1,671)
4.i	UEDTB	\$0
5	Authorized Rate of Return (D.16-12-035)	8.44%
6	Return on Rate Base Line (4 * 5)	\$2,592,754
7	Revenue Requirement Line (2 + 6)	\$12,850,973
		<<START CONFIDENTIAL>> [REDACTED]
8	CHCF-A Subsidy	<<END CONFIDENTIAL>>
9	Rate of Return (for test) Line (1 - 2)/Line 4	8.44%
10	Net-To-Gross Multiplier	1.3885726

Attachment B: Ponderosa's Depreciation Rates

ACCOUNT	DESCRIPTION	ADOPTED RATE
2112	Motor Vehicles	7.60%
2114	Tools & Other Work Equip	0.88%
2114	Garage Work Equipment	0.00%
2121	Buildings	1.40%
2122	Furniture	1.84%
2123	Office Support Equip	7.64%
2123	Company Communications Equip	13.54%
2124	General Purpose Computers	9.51%
2212	Digital Electronic Switching	0.00%
2231	Microwave Systems	8.32%
2232	Circuit Equip-Electronic	0.99%
2232	Circuit Equip-Optical	5.52%
2411	Pole	10.96%
2421	Aerial Cable-Metallic	0.00%
2421	Aerial Cable-Fiber Optic	8.87%
2422	Underground Cable -Metallic	0.00%
2423	Buried Cable-Metallic	1.57%
2423	Buried Cable-Fiber Optic	5.01%
2431	Aerial Wire-Metallic	0.00%
2441	Underground Conduit	2.77%

Exhibit 2

Comparison of Parties' Positions and Settlement Terms

<u>Issue</u>	<u>Ponderosa's Proposal</u>	<u>Cal Advocates' Recommendation</u>	<u>Settlement Terms</u>
Revenue Requirement	\$13,653,875	\$12,249,522 (based on Ponderosa's 2022 year-end financial results)	\$12,850,973 based on an assumed rate of return of 8.44%. Revenue requirement will be updated using an agreed-upon formula within 30 days of the issuance of a final decision in A.22-09-003.
End User Rates	Residential: \$25.00 Business: \$37.10	Residential: \$27.50 Business: \$40.80	Residential: \$26.50 Business: \$38.10
CHCF-A Draw	\$5,397,778	\$3,600,033 (based on Ponderosa's 2022 year-end financial results)	<<START CONFIDENTIAL [REDACTED] END CONFIDENTIAL>> to be updated once NECA releases the 2024 HCLS amount on or around October 1, 2023.
Custom Calling/Voicemail	Include Custom Calling and Voicemail services at zero charge to residential and business customers within the monthly rate.	Include Custom Calling and Voicemail services at zero charge to residential and business customers within the monthly rate.	No dispute existed between each party's proposal. Custom Calling and Voicemail services will be included with the residential and business monthly rate.
Retail Low-Income Broadband Pricing	No proposal.	The Commission should require Ponderosa to implement a Low-Income Broadband service plan.	Within 30 days after Commission approval of this Settlement Agreement and through issuance of a Commission decision resolving Ponderosa's next general rate case, Ponderosa's ISP affiliate will offer a 100 megabits per second ("Mbps") download/100 Mbps upload broadband service to eligible low-income customers to whom fiber facilities have been deployed at the rate of \$45 per month. "Eligible low-income customer" shall mean an individual who has been designated as eligible under the LifeLine program or under the Federal Communications Commission's Affordable Connectivity Program ("ACP"). The price to be paid by eligible low-income customer shall be an effective rate of

			\$15/month after application of the ACP discount.
Broadband Adoption Plan	No proposal.	The Commission should require Ponderosa to pursue a broadband adoption plan and report on adoption at speeds equal to or higher than 25/3 Mbps semi-annually.	Ponderosa's ISP affiliate 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. 2024: 30% subscription rate; 2025: 36% subscription rate; 2026: 42% subscription rate; 2027: 48% subscription rate.
Broadband Service Quality Tracking and Reporting	No proposal.	The Commission should require Ponderosa to track and report service quality metrics related to the delivery of both wholesale and retail broadband service.	Ponderosa will track and report various metrics defined in the Settlement Agreement related to its broadband capable network and shall cause its ISP affiliate to track and annually report various service quality metrics and broadband customer counts.

Exhibit 3

The Ponderosa Telephone Co.

Test Year 2024

Results of Operations

Highlight : Confidential

	ORA Proposed Intrastate A	Ponderosa Proposed Intrastate B	Difference Proposed Intrastate \$ % C=A-B D=C/B		Proposed Settlement Intrastate E
OPERATING REVENUES:					
1 Local Network Services	3,020,924	2,733,348	287,576	10.52%	2,898,248
2 CHCF-A Revenue	██████████	██████████	{1,797,745}	-33.31%	██████████
3 High Cost Fund Support	3,795,998	3,795,998	0	0.00%	3,795,998
4 Intrastate Access	331,003	331,003	0	0.00%	331,003
5 Interstate Access	0	0	0	0.00%	0
6 Imputed Broadband Revenue	██████████	██████████	105,815	8.23%	██████████
7 Miscellaneous	111,369	111,369	0	0.00%	111,369
8 Uncollectible Revenues.	{1,885}	(1,885)	0	0.00%	{1,885} ██████████
9 Total Operating Revenues	12,249,522	13,653,876	{1,404,354}	-10.29%	12,850,973
OPERATING EXPENSES:					
10 Plant Specific	2,570,113	2,885,289	{315,176}	-10.92%	2,676,984
11 Plant Non-specific	1,692,249	1,627,302	64,947	3.99%	1,762,616
12 Depreciation & Amortization	3,201,466	3,360,985	{159,519}	-4.75%	3,301,814
13 Customer Operations	427,373	557,153	{129,780}	-23.29%	445,144
14 Corporate Operations	1,279,162	1,330,032	(50,870)	-3.82%	1,282,183
15 Total Operating Expenses	9,170,363	9,760,761	{590,398}	-6.05%	9,468,741
OPERATING TAXES:					
16 Operating State Inc. Taxes	104,867	296,589	{191,722}	-64.64%	139,775
17 Operating Fed Income Taxes	227,096	642,284	{415,188}	-64.64%	302,692
18 Taxes Other Than Income	333,013	370,236	(37,223)	-10.05%	347,011
19 Total Operating Taxes	664,976	1,309,109	{644,133}	-49.20%	789,478
20 Amortized Excess Def Inc Tax	0	0	0	0.00%	0
21 Net Operating Revenue	2,414,183	2,584,006	{169,823}	-6.57%	2,592,754
RATE BASE (Beginning+ End of Year Average)					
22 Telephone Plant-in-Service	108,090,694	110,515,776	{2,425,082}	-2.19%	110,260,363
23 Telephone Plant Under Construction	586,452	586,452	0	0.00%	586,452
24 Materials & Supplies	1,441,860	1,441,860	0	0.00%	1,441,860
25 Working Cash	589,079	636,368	{47,289}	-7.43%	589,079
26 Depreciation Reserve	{81,879,475}	{82,594,643}	715,168	-0.87%	{81,931,965}
27 Deferred Taxes	(74,865)	180,034	(254,899)	-141.58%	{76,278}
28 Post Retirement Benefits	{148,002}	(148,002)	0	0.00%	{148,002}
29 Customer Deposits	{1,671}	{1,671}	0	0.00%	(1,671)
30 UEDTB	0	0	0	0.00%	0
31 Total Rate Base	28,604,072	30,616,174	(2,012,102)	-6.57%	30,719,838
32 Rate of Return	8.44%	8.44%			8.44%