

Decision 15-06-048 June 25, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into the Review of the California High Cost Fund-A Program.

Rulemaking 11-11-007
(Filed November 10, 2011)

DECISION ADOPTING A GENERAL RATE CASE PLAN FOR CALIFORNIA HIGH COST FUND-A RECIPIENTS

Summary

This decision adopts a Rate Case Plan to be applied in the General Rate Case Applications filed by California High Cost Fund-A recipients.

1. Background and Relevant Procedural History

With the Order Instituting Rulemaking (OIR) (Rulemaking (R.) 11-11-007), the Commission began a review of the California High Cost Fund-A (CHCF-A) program. This proceeding examines the appropriate regulatory framework to ensure the continued provision of safe, reliable telecommunications services to rural areas at just and reasonable rates. In examining this framework, the Commission seeks to balance investments from the CHCF-A program with appropriate contributions from Rural Local Exchange Carriers (RLEC)¹

¹ The RLECs include Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company (Happy Valley); Hornitos Telephone Company (Hornitos); Kerman Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company and Volcano Telephone Company and Winterhaven Telephone Company (Winterhaven). Happy Valley, Hornitos, and Winterhaven

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customers, and maximize federal funding to leverage federal, state, and customer dollars to ensure high quality service.

The current CHCF-A rules are summarized in Appendix A, Section D (Rate Proceedings and Funding Levels) to Decision (D.) 91-09-042. Pursuant to these rules, Small Local Exchange Carriers (Small ILECs) wishing to receive CHCF-A support must periodically file General Rate Cases (GRCs) with the Commission. Under the current procedure, CHCF-A subsidies are subject to a six-year phase down cycle. The cycle begins on January 1 after a GRC decision is issued. A company receives full (100%) funding for three years following the GRC decision. In the fourth year, the company receives funding at 80% of the GRC decision, in the fifth year 50%, and in the sixth year 0%, unless a new rate case is filed after the third year following the completion of the previous GRC. The cycle begins again with the filing and approval of a GRC application. This six-year cycle with reduced funding levels after three years is referred to as the “waterfall” mechanism. GRCs are only required to be filed by CHCF-A eligible companies who wish to avail themselves of the A-fund subsidies.

In August of 2014, the California Legislature passed Assembly Bill (AB) 1693. AB 1693 would have required the Commission to issue its final decision on a Small ILEC GRC no later than 390 days following the Small ILECs filing of its GRC application or advice letter initiating the GRC. If the Commission failed to issue a final decision by the 390th day, the bill would have provided that the rate design proposed by the Small ILECs in its application or

are eligible for A-Fund subsidies but currently do not draw from the A-Fund. The remaining 10 RLECs that do draw on the A-Fund are known as the small Independent Local Exchange Carriers (Small ILECs).

advice letter would take effect on an interim basis beginning 420 days following the filing of the application or advice letter, subject to an accounting true-up at a later date.

On September 20, 2014, Governor Brown vetoed AB 1693. However, in his veto message, the Governor encouraged the Commission to create a GRC Plan to spur timely completion of the Small ILECs' GRCs. On December 9, 2014, the Assigned Commissioner issued a Second Amended Scoping Ruling that revised the scope of this proceeding to address the implementation of a GRC Plan for Small ILECs that draw from the CHCF-A program as well as possible adjustments to the waterfall mechanism. On December 18, 2014, the Commission issued D.14-12-084 for Phase 1 of the instant proceeding. Ordering Paragraph 4 of the Decision stated that the assigned Commissioner would issue a ruling soliciting comments in order to create a GRC plan for the Small ILECs² to be implemented in an interim decision between Phase 1 and 2 of the instant proceeding.³ As noted, supra, a Second Amended Scoping Memo and Ruling of Assigned Commissioner, to add consideration of a GRC Plan, was issued on December 9, 2014.

A draft Rate Case Plan (RCP) was attached to the Seconded Amended Scoping Ruling. Parties to the proceeding were ordered to file comments on the draft RCP by January 9, 2015, and to file reply comments by January 23 with an

² Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C) (Cal-Ore), Ducor Telephone Company (U 1007 C) (Ducor), Foresthill Telephone Co. (U 1009 C) (Foresthill), Kerman Telephone Co. (U 1012 C)(Kerman), Pinnacles Telephone Co. (U 1013 C) (Pinnacles), The Ponderosa Telephone Co.(U 1014 C) (Ponderosa), Sierra Telephone Company, Inc. (U 1016 C) (Sierra), The Siskiyou Telephone Company (U 1017 C) (Siskiyou), and Volcano Telephone Company (U 1019 C)(Volcano) (the Small ILECs).

³ D.14-12-084, Ordering Paragraph 4.

interim proposed decision to follow. On January 9, 2015, the Assigned Administrative Law Judge (ALJ) issued an e-mail setting a Workshop for February 5, 2015 for Parties to discuss the proposed RCP. A partially transcribed workshop was held on February 5, 2015. On March 20, 2015, pursuant to Rule 11.1,⁴ the Small ILECs filed a Motion for adjustment to the deadlines for submission of Rate Cases and a premature application of the waterfall mechanism under D.91-09-042 and D.14-08-010. The Assigned ALJ issued a Ruling granting the Motion on March 26, 2015, staying and freezing the waterfall mechanism.

2. Draft Proposed Rate Case Plan

In Attachment A to the Second Amended Scoping Memo, we provided a draft RCP, prepared by the Commission's Communication Division (CD). The Attachment has been revised in response to comments from interested parties. Table 1 of the draft RCP illustrates a proposed GRC application cycle commencing January 1, 2015, allowing for three GRC applications (Group A) the first year (2015), followed by four applications during year two and three during year three (Groups B and C respectively),⁵ equaling a cycle of ten GRC submissions every three years. The cycle would continue subject to review after the first cycle of submissions is completed. Under the proposal, the Small ILECs

⁴ All references to Rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at:

http://docs.cpuc.ca.gov/word_pdf/RULES_PRAC/70731.pdf

⁵ Group A: Kerman (filing submitted and in process), Sierra, Siskiyou, Volcano; Group B: Calaveras, Cal-Ore, Ponderosa; Group C: Ducor, Foresthill, Pinnacles.

would continue to be required to submit succeeding applications by the end of the last Test Year to recover at the 100% waterfall threshold.⁶

Table 1 of the draft RCP also illustrates the proposed cycle for the next ten years. Carriers currently drawing 100% of their CHCF-A funding would not be penalized by the waterfall provisions because they could not file a GRC until a future year. It would be reasonable to suspend the waterfall provision while Groups A through C are submitting their respective first rounds of GRC applications. Additionally, the two carriers whose respective waterfalls are currently at 80% (Volcano and Sierra) would be included in the first and second GRC application cycles, respectively. The draft RCP provides for a balance of larger, medium, and smaller ILECs in each group, as described by customer count.

The draft RCP assumes that the Commission's Office of Ratepayer Advocates (ORA) will provide the Small ILECs with Minimum Data Requirements (MDRs) to be completed and submitted by the Small ILECs with their initial GRC workpapers. Under the draft RCP, MDRs should be highly detailed and should include, but are not limited to, questions about salaries, expenses, and current and future rate base projects. The Small ILECs responses to the MDRs should be provided to ORA in a traceable, *Excel* format. CD further proposed that an onsite meeting be held between the applicants Small ILEC, CD staff, ORA, and other interested parties after the GRC application submission in order to evaluate various rate-base associated projects and other rate case issues.

⁶ Second Amended Scoping Ruling, Attachment A.

Table 2 of the draft RCP illustrates the proposed benchmarks of the GRC application and proceeding: a notice of intent sixty days prior to the application date (Application Date (A.) minus 60 days) followed by a filing of deficiencies identified by CD Staff (by A. minus 30 days); Applicant resolves deficiencies (A. minus 20 days); Company files (A. date, or day 0) , Pre-Hearing Conference (A. plus 60 days); Discovery (A. plus 0-150 days); Testimony (A. plus 150-180); Evidentiary Hearings (A. plus 210-220 days); Briefs (A. plus 250-271 days) and tentatively completing with a Commission vote approximately 13 to 14 months after the GRC application submission (A. plus 390 – 420 days)⁷.

2.1. Parties' Responses to Scoping Ruling Questions/Issues

The primary question in the Second Amended Scoping Ruling was: Should the Commission adopt CD's proposed RCP and if not, what revised or alternate GRC plan should be adopted by the Commission? In addition, the Scoping Ruling asked what adjustments, if any, should be made to the waterfall provisions of the Small ILEC's GRCs during the implementation of the RCP?

In their comments, ORA agrees that the Commission should adopt a comprehensive RCP in order to avoid the additional and unnecessary expense of preparing GRC applications. ORA encourages the Commission to expeditiously adopt a GRC plan for the Small ILECs that receive subsidies from the CHCF-A.⁸

ORA also emphasized that a successful RCP must contain minimum data requirements that the Small ILECs must provide when filing their GRC applications. ORA notes that when the Commission adopted an RCP for water

⁷ Second Amended Scoping Ruling, Attachment A, Table 2.

⁸ ORA Comments on the proposed General Rate Case Plan at 1.

utilities, the use of MDRs was intended to streamline the formal discovery process during a GRC or a cost of capital proceeding. ORA argues that the Commission and its staff of analysts, attorneys, and judges should not be placed in the difficult position of being required to evaluate incomplete or insufficient data within the statutorily determined timeframe for a GRC.⁹

ORA agrees with the proposed RCP and recommends that the “waterfall” mechanism (phase-down of CHCF-A support) be suspended for all Small ILECs during the first cycle of GRC applications. ORA states that suspension of the waterfall mechanism during the first complete cycle of GRC applications would mitigate the potential implications for a Small ILEC appearing in a later filing group.¹⁰ ORA contends that after the first complete cycle of GRC applications, the waterfall mechanism would be effectively rendered moot as GRC applications would be required every three years for each Small ILEC that continues to receive CHCF-A support. ORA argues that in addition to guaranteeing that Small ILECs’ rates and CHCF-A support are prudent and reasonable, the mandatory three-year filing cycle and establishment of MDRs would assist the Commission in meeting the statutory requirement that it inspect and audit the books and records of the Small ILECs on a regular basis.¹¹

ORA also recommends that the Commission consolidate consideration of the Small ILECs cost of capital into a single proceeding separate from the GRC applications.¹² ORA contends that additional regulatory efficiency can be

⁹ ORA Comments on the proposed General Rate Case Plan at 2

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² *Id.* at 4.

obtained by developing a standard process for determining authorized rates of return. ORA argues that this would minimize the number of contentious issues within GRC applications and ensure that an equitable cost of capital is efficiently determined and uniformly applied when the Commission authorizes revenue requirements in a GRC. ORA states that any effective GRC plan should ensure that the Small ILECs participate in a standardized cost of capital proceeding every three years.¹³

In their opening comments, the Small ILECs state that the rate cases should be processed in three groups, the first beginning in May 2015 with a test year of 2016 (for four companies) and the second beginning in May 2016 with a test year of 2017 (for another four companies). They suggest that the Foresthill rate case would proceed after these initial batches, and the Kerman case would remain on a separate track in its ongoing proceeding.¹⁴

The Small ILECs contend that an overall rate case timeframe of 13 months should be adopted. This time frame could be extended for two additional months by an Assigned Commissioner Ruling if it could be demonstrated that there was good cause for the delay.¹⁵

The Small ILECs propose that notice of a GRC should be provided 60 days before the submission of a rate case filing, and a meeting between ORA, CD, and the applicant should take place at least 30 days before the filing date. At the 30-day meeting, initial proposals and calculations reflecting key ratemaking metrics should be exchanged and discussed. The Small ILECs suggest that

¹³ ORA Comments on the proposed General Rate Case Plan, at 4.

¹⁴ Small ILEC Comments on the proposed General Rate Case Plan, 2:6-8.

¹⁵ *Id.*, at 2:9-11.

deficiencies should be identified and addressed, but that no party should have the ability to foreclose a rate case filing based on an assertion of a deficiency.

The Small ILECs propose that shortly after the submission of a rate case filing, a standard set of MDR responses should be provided to CD and ORA. These responses should include significant but reasonable amounts of data regarding key ratemaking calculations, historical data, and other data identified as significant to ORA and/or CD. Following the submission of intervenor testimony, any intervenors should also provide a standard set of information in the form of a data request response to the applicant and CD.¹⁶

The Small ILECs recommend that a cost of capital or rate of return proceeding take place during 2015 and early 2016, and the results of that proceeding be incorporated into the final results of the 2015-2016 round of rate cases. The Small ILECs state that depending on the outcome of the "cost of capital" proceeding, the results may also be incorporated into the results of the other rate cases in the upcoming cycle.¹⁷

Finally, the Small ILECS suggest that following the initial GRC cycle (including the three rounds described above), waterfall adjustments should be made to encourage the submission of rate cases every five years in groups of two companies per year. The Small ILECs' assert that their GRC plan is balanced and reasonable, and should be adopted subject to limited adjustments that may be appropriate following discussions amongst the parties.¹⁸

¹⁶ Small ILEC Comments on the proposed GRC Plan, 2:16-19.

¹⁷ *Id.*, 2:20-23.

¹⁸ *Id.*, 3:1-3.

In their opening comments on the proposed RCP, Happy Valley Telephone Company, Hornitos Telephone Company and Winterhaven Telephone Company (collectively referred to as "TDS Telecom") state that the schedule for upcoming rate cases in the proposed RCP plan appropriately focuses on CHCF-A recipients without reference to the TDS Telecom companies. However, TDS Telecom asserts that nothing in the language of any decision adopting a RCP should state or imply that the TDS companies are foreclosed from filing rate cases as appropriate should the need arise.¹⁹ The TDS companies argue that they remain subject to rate-of-return regulation, and unless and until they are placed under another regulatory framework, they should retain the right to bring a rate case before the Commission just like any other rate-of-return carrier. They contend that this right should not be restricted by the instant RCP or any other limitation.²⁰

TDS contends that to the extent that the proposed RCP is applied to them, the 18-month completion deadline for a rate case (480 days, plus the 60-day pre-application notice) is excessive, unnecessary, and inconsistent with Governor Brown's directives to provide for timely and efficient processing of rate cases. TDS also argues that there should be no reason why a simple rate case cannot be processed within one year or less as is the case in many other states.²¹ Finally, TDS asserts that the Commission should retain the streamlined option for submitting a rate case under G.O. 96. TDS states that the advice letter process

¹⁹ TDS Comments on the proposed General Rate Case Plan, 1:8-15.

²⁰ *Id.*, 1:16-19.

²¹ *Id.*, 1:20-25.

should also be utilized to facilitate expedited rate adjustments in order to align rates with the Federal Communications Commissions (FCC) rate floor.²²

In their reply comments, the Small ILECs' assert that ORA's opening comments fail to justify its (ORA's) pre-application "veto" process, its burdensome and ambiguous "minimum data requirements," and its perpetual three-year rate case and "rate of return" reviews.²³ The Small ILECs contend that these proposals are united by a tenuous thread that reflects an effort on ORA's part to impose procedures, timelines, and data requirements from the water regulatory model onto small telephone companies. The Small ILECs argue that ORA's opening comments attempt to justify these requirements as successful because of their longstanding use in the water utility GRC process.²⁴ The Small ILECs contend that ORA's GRC and RCP proposals ignore key differences between the telecommunications and water regulatory platforms and industries. The Small ILECs assert that it would be unreasonable to import controversial new elements into a small telephone company RCP that are derived from a decades-long regulatory process affecting a different utility sector.²⁵ More specifically, the Small ILECs argue that the implementation of a pre-application veto process and MDRs would raise serious due process concerns and empower ORA to hold Small ILECs hostage before their rate case applications can even be filed.²⁶

²² *Id.*, 1:26-28; 2:1-2.

²³ Small ILEC Reply Comments on the proposed General Rate Case Plan, 2:1-3.

²⁴ *Id.*, 2:4-8.

²⁵ *Id.*, 2:8-10.

²⁶ *Id.*, 2:12-16.

While they object to several aspects of the proposed RCP and ORA's RCP/GRC proposals, the Small ILECs acknowledge that their and ORA's plans share many similar elements, including efforts to coordinate in advance of a filing, the identification of intra-proceeding deadlines, and a process for batch treatment of the next set of rate cases. The Small ILECs state that these commonalities underscore the likely usefulness of a workshop to narrow differences between the ORA and Small ILEC proposals and explore options regarding specific deadlines and requirements.²⁷ The Small ILECs continue to believe that their RCP embodies a reasonable approach to the upcoming rate cases and creates a balanced platform for addressing immediate and future rate cases in a timely manner. They recommend that their RCP should be adopted, with any appropriate refinements that may emanate from future workshop discussions.²⁸

In its Reply Comments, ORA states that the adoption of a comprehensive GRC Plan is essential for balancing the workload of the Commission and the staff and that the proposed RCP and ORA's GRC plan both properly balance the workload against the interests of the regulated utilities by deferring filing of certain Small ILEC s' GRCs until 2016 and 2017.²⁹ ORA contends that the Small ILECs objection to the ORA RCP are unfounded and/or are a result of a misunderstanding of ORA's proposals. ORA points out that their proposed RCP is basically identical to the process adopted by the Commission for water

²⁷ Small ILEC Reply Comments on the proposed General Rate Case Plan, 2:25-27; 3:1-6.

²⁸ *Id.*, 3:8-12.

²⁹ ORA Reply Comments on the proposed General Rate Case Plan at 1.

utilities.³⁰ ORA asserts that, under its proposal, the Small ILECs' GRCs would be processed in 460 days, or about 15 months. They contend that by comparison, the timeline for water GRCs varies between 11 and 18 months. ORA states that its proposed timeline includes the 60 days necessary for conducting a deficiency review prior to the Small ILEC filing a final application and that this does not add any additional time.³¹

ORA argues that the Small ILECs' concern that the deficiency review "adds 60 days" to the GRC application process ignores the fact that the entire GRC process (including the deficiency review) in ORA's proposal takes about 15 months to complete.³² The Small ILECs cite to several GRCs that were decided in a slightly shorter time frame than both ORA's and the assigned Commissioner's proposed RCP. However, ORA asserts that those cases were handled via the informal advice letter process and decided by Commission resolutions, not final decisions, and did not involve the filing of testimony or evidentiary hearings. ORA reiterates that, under its proposal, the advice letter process is still an option for the Small ILECs.³³

ORA asserts that the Small ILECs' argument that the MDRs "go far beyond the minimum" information necessary to evaluate GRCs, and "impose unreasonable burdens" for "no apparent benefit," is pure hyperbole.³⁴ ORA asserts that the questions are not unreasonable and the benefits are obvious.

³⁰ *Id.* at 2.

³¹ ORA Reply Comments on the proposed General Rate Case Plan at 2.

³² *Id.* at 3.

³³ *Id.* at 3.

³⁴ *Id.* at 3 citing Small ILECs Opening Comments at 12.

ORA argues that both it and the Commission need certain types of information that are basic to all ratemaking, such as financial statements, tax returns, infrastructure plans, affiliate transaction data, etc. ORA asserts that it is far more efficient to require production of this information at the beginning of the GRC process, rather than waiting for ORA to propound data requests and for the applicant to answer them later.³⁵

ORA argues that the Small ILECs do not make a convincing argument that ORA's proposed MDRs are unreasonable or burdensome. ORA points out that the Small ILECs list only four potentially objectionable items and claims that for those four items, the Small ILECs' concerns are unfounded.³⁶ ORA states that when the Commission adopted a rate case plan for water utilities it noted that the use of MDRs is intended to "streamline the formal discovery process during a GRC or a cost of capital proceeding."³⁷ ORA argues that the Commission and its staff of analysts, attorneys, and judges should have all of the information necessary to evaluate the Small ILECs' data within the statutorily determined timeframe for a GRC. ORA recommends the Commission adopt a comprehensive GRC Plan which includes MDRs and a process to verify their inclusion in the Small ILECs' GRC applications.³⁸

In its Reply Comments, TDS Telecom states that it has not recently filed a rate case in California and it does not currently draw from the CHCF-A fund. However, TDS Telecom says it is concerned about several of the suggested

³⁵ ORA Reply Comments on the proposed GRC Plan at 4.

³⁶ *Id.*

³⁷ *Id.* at 5 citing Commission D.07-05-062 at 21.

³⁸ *Id.* at 5.

elements of the GRC plan. TDS states that in the event that it needs to file a rate case in the future, it wishes to ensure that rate relief can be obtained in an expeditious manner and through a fair, objective, and reasonably non-burdensome process.³⁹ TDS asserts that some of the proposals in the opening comments would undercut these goals.

TDS claims that the most troubling proposal presented in ORA's opening comments is the suggestion that ORA should have an opportunity to block the filing of a rate case application if it deems the application "deficient."⁴⁰ TDS argues that if adopted, this proposal would put ORA in the role of both the advocate and adjudicator in the context of small telephone company rate cases. This, TDS asserts, would undermine the adjudicatory process by conferring a significant "veto" power upon ORA that could materially prejudice the ability of an applicant telephone company to receive a fair and timely hearing before this Commission.⁴¹

TDS also disagrees with ORA's proposal to hold rate cases every three years. TDS asserts that there is no requirement in Public Utilities Code Section 314.5 or anywhere else to hold rate cases every three years, and that the Commission should not adopt this proposal. TDS argues that if enacted, this policy would greatly increase the resources that both the telephone companies and the Commission would have to devote to the rate case process, and thereby

³⁹ TDS Telecom Reply Comments on the proposed GRC Plan, 1:12-19.

⁴⁰ *Id.*, 2:4-6, citing *ORA Rate Case Plan*, at 7-8.

⁴¹ *Id.*, 2:6-10.

make the entire system untenable and more costly for ratepayers.⁴² TDS also states that when held, GRCs should be completed in one year.⁴³

TDS disagrees with both ORA's and the Small ILECs' proposals for MDRs. TDS states that both proposals include more information than is necessary to meaningfully evaluate a rate case.⁴⁴ TDS asserts that the rate case process is simpler than ORA's and the Small ILECs' opening comments suggest, and that the Commission should not inject undue complexity into a process upon which regulated telephone companies depend to make necessary rate adjustments. TDS contends that any formal and/or informal RCP should provide for streamlined, expeditious processes that minimize the burden on both the applicants and the Commission and minimize the cost to ratepayers.⁴⁵

2.2. Workshop

The ALJ issued an e-mail ruling on January 22, 2015 noticing a workshop to address relevant issues concerning a GRC plan to be held on February 5, 2015. The e-mail ruling listed four proposed agenda items:

- A. Timeline, rotation, and staging for Small ILEC GRCs, plus possible waterfall issues;
- B. Rate of Return proceeding timing;
- C. Minimum data requirements; and
- D. Discovery procedures and timing⁴⁶

⁴² *Id.*, 3:4-9.

⁴³ *Id.*, 3:13-14.

⁴⁴ TDS Telecom Reply Comments on the proposed General Rate Case Plan, 5:5-6.

⁴⁵ *Id.*, 6:12-18.

⁴⁶ January 22, 2015 Email Ruling in R.11-11-007 Noticing Workshop.

The workshop was held on February 5, as noticed, and was partially transcribed with introductions of the attendees and description of the agenda on the record. The discussions of the agenda issues were not transcribed but a summary of the workshop was transcribed.⁴⁷ The workshop was attended by the assigned Commissioner, the assigned ALJ, representatives from ORA and CD, the Small ILECS (including Ducor and Sierra Telephone), and TDS Telecom.⁴⁸

3. Discussion of Rate Case Plan for CHCF-A Recipients

Attached as Appendix A to this interim decision is the RCP for recipients of CHCF-A. We have reviewed the comments of the parties to the draft RCP proposal, alternative proposals submitted by ORA and the Small ILECs, as well as the discussions and input received from the parties at the February 5, 2015 workshop. We have sought a balanced approach appropriate for all parties, including TDS. No party will have a veto over the process and TDS's interests are in no way prejudiced going forward. Our purpose has been to adopt an expeditious rate cast plan that is efficient of parties' resources, including the Commission's, and orderly over several rate case cycles.

The RCP that we adopt by this decision consists of three tables/sections that are discussed further in the subsections below:

1. Section 1/Table 1 is the General Rate Case Plan Cycle;
2. Section 2/Table 2 consists of Other Rate Case Plan Issues: Data Requests and Notice of Intent prior to GRC filing; and
3. Section 3/Table 3 is the Cost of Capital Proceeding.

⁴⁷ February 5, 2015 Workshop Transcript, 2:13-18.

⁴⁸ February 5, 2015 Workshop Transcript at 3 & 4

3.1. The General Rate Case Plan Cycle

We have revised Section 1/Table 1 of the RCP (Appendix A) from the draft RCP prepared by CD. It illustrates a proposed GRC application cycle commencing January 1, 2015, allowing for three GRC applications (Group A) the first year (2015), followed by four applications during year two (2016) and three applications during (2017) (Groups B and C respectively), equaling a cycle of ten GRC submissions every three years. The next cycle would continue along these lines, subject to review after the first cycle of submissions is completed. The Small ILECs would continue to be required to submit succeeding applications by the end of the last Test Year to recover at the 100% waterfall threshold.

We propose that the grouping be as follows:

- Group A: Kerman (filing submitted and in process, Initial Test Year 2016), , Siskiyou, Volcano;
- Group B: Calaveras, Sierra, Cal-Ore, Ponderosa; and
- Group C: Ducor, Foresthill, Pinnacles.

It would be unreasonable to penalize those carriers that are currently drawing 100% of their CHCF-A funding by making them subject to the waterfall provisions while simultaneously not allowing these carriers to file a GRC until a future year. It is reasonable to suspend the waterfall provision while Groups A through C are submitting their respective first rounds of GRC applications. Two of the Small ILECs, Sierra and Volcano, have waterfalls currently at 80%. Both of these carriers will remain at 80% until their first GRC application cycle is completed. This RCP provides for a balance of larger, medium, and small ILECs to submit in each GRC group, as described by each carrier's customer count. However, we stress that the assigned ALJ is authorized to modify this RCP and its schedule upon motion of a party or parties should a rearrangement or realignment serve the purpose of efficiency and the public interest. A Small

ILEC that does not file a GRC application during the first year of their scheduled cycle will be required to obtain an exemption from the Commission's Executive Director, pursuant to Rule 16.6, or wait until the first year of their next GRC cycle. During this period the waterfall provisions will not be tolled.

3.2. Data Requests and Notice of Intent prior to GRC filing

Section 2/Table 2 Table 2 of the RCP (Appendix A) illustrates updated benchmarks and associated timespan for the GRC applications and proceedings. The process will begin 60 days prior to the actual application filing date with a notice of intent (NOI). The initial NOI date will be October 1, 2015 with the initial applications to be filed on December 1, 2015. In following years of the rate case cycle, the NOI date will be August 1 with applications to be filed October 1. The process is tentatively completed with a Commission vote approximately 14 months after the application is filed. ORA will provide the Small ILECs with MDRs to be completed and submitted by the Small ILECs with initial GRC work papers. MDRs should be highly detailed and cover the areas identified by ORA and CD in their GRC experiences. The MDRs should include, but are not limited to, questions about salaries, expenses, and current and future rate base projects. MDR responses should be provided in traceable, *Excel* format, as appropriate. In addition, we recommend that an onsite meeting between the Small ILECs, CD staff, ORA, and other interested parties be held after the application submission to evaluate various rate-base associated projects and other rate case issues. ORA will be required to provide the Small ILECs copies of its workpapers used to prepare its MDRs. Any dispute between the Small ILECs and ORA on the content of MDRs is to be resolved in writing by the Director of CD. At the request of any party, CD may convene an informal workshop for parties to meet,

confer and to address any potential application deficiencies or other matters. Issues not resolved in the informal workshops would be addressed at a Pre-Hearing Conference (PHC) after the application is filed.

3.3. Cost of Capital Proceeding

The Second Amended Scoping Memo and its attached draft RCP prepared by CD did not include discussion of a separate “Cost of Capital” (COC) proceeding for the Small ILECs. However, in their comments to the Second Amended Scoping Memo, the Small ILECs recommend that a cost of capital or rate of return proceeding take place during 2015 and early 2016, and the results of that proceeding be incorporated into the final results of the 2015-2016 round of rate cases.⁴⁹ The COC proceeding proposal was also discussed at the February 5 workshop.⁵⁰

We agree with the Small ILECs and have determined that there should be a consolidated proceeding where the issue of COC is examined for each of the ten CHCF-A companies. The results of that COC proceeding should be applied in any pending and future GRC application cycles set forth in Section 1/Table 1 of the RCP, including the upcoming 2016-2020 cycle. Section 3/Table 3 of the RCP illustrates the benchmarks of the COC application and proceeding. We set September 1, 2015 as the application submission date in to allow parties sufficient time, 60 days, to submit their respective findings.

⁴⁹ Small ILEC Comments on the proposed General Rate Case Plan, 2:20-23.

⁵⁰ February 5, 2015 Workshop Transcript, 15:11-28 through 19:1-7.

4. Conclusion

The RCP for CHCF-A recipients will provide a consistent, transparent and streamlined procedure to process the GRCs of the Small ILECs. By adopting and implementing this new Rate Case Plan we are in conformance with the policy set forth in Governor Brown's AB 1693 veto message. Timely completion of the Small ILECs' GRCs balances the workload of the Commission and its staff over time, and that of the parties, and enables comprehensive review by the Commission of rates and operations of all CHCF-A recipients in a manner that does not prejudice the interests of any GRC carrier or its customers, or the concerns of TDS carriers. The TDS companies are not foreclosed from filing rate cases as appropriate should the need arise.

5. Categorization and Need for Hearings

The Commission preliminarily categorized this rulemaking to be "quasi-legislative" and preliminarily determined that hearings are unnecessary. In the Amended Scoping Memo and Ruling of the Assigned Commissioner, issued on March 18, 2014, it was determined that evidentiary and public participation hearings were necessary. The designation of quasi-legislative remains.

6. Comments on Proposed Decision

The proposed interim decision of the Commissioner in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on June 15, 2015 by the Small ILECs and ORA and reply comments were filed on June 22, 2015 by the Small ILECs, TDS and ORA.

We have reviewed the Comments and Reply Comments and based on said comments and our own initiative have made the following changes to various sections of the PD and the Appendix:

- §2, Clarified that Sierra will be in second GRC cycle
- §3.1, Moved Sierra from Group A to Group B
- §3.1, A Small ILEC that does not file a GRC application during the first year of their scheduled cycle will be required to obtain an exemption from the Commission's Executive Director, pursuant to Rule 16.6, or wait until the first year of their next GRC cycle. During this period the waterfall provisions will not be tolled.
- §3.1, Stated that the initial NOI should be filed on October 1, 2015 and initial GRC applications should be filed on December 1, 2015
- §3.2, Added text in Comments section to acknowledge requirement for ORA to submit MDRs/workpapers in Small ILEC GRCs.
- §3.2, Any dispute between the Small ILECs and ORA on the content of MDRs is to be resolved in writing by the Director of CD.
- §3.3, Changed date for filing of COC proceeding application from August 1, 2015 to September 1, 2015
- FOF #16, clarified GRC submission text
- COL #8, clarified application of finding of COC proceeding to GRCs
- COL #11, added that a Small ILEC that does not file a GRC application during the first year of their scheduled cycle will be required to obtain an exemption from the Commission's Executive Director, pursuant to Rule 16.6, or wait until the first year of their next GRC cycle. During this period the waterfall provisions will not be tolled
- OP #8, clarified application of finding of COC proceeding to GRCs

- OP #11, added that a Small ILEC that does not file a GRC application during the first year of their scheduled cycle will be required to obtain an exemption from the Commission's Executive Director, pursuant to Rule 16.6, or wait until the first year of their next GRC cycle. During this period the waterfall provisions will not be tolled
- Appendix page 1 clarified GRC application timing text above Table 1
- The following are edits to text and day counts made to Table 1 and Table 2 Benchmark/Timeline, Day (count):
 - Sierra moved to Group B
 - Appendix page 2, Table 2, "Applicant provides initial proposals" (-60 to -30) has been moved up to the second line of the table just below NOI submission (-60)
 - Just below that entry – on the third line – "ORA sends Master Data Request" has been changed to -55 days
 - "Applicant responds to ORA's MDR" has been changed to a 14-day response differential, at -41 days.
 - "CD provides deficiency or compliance letter" is -30
 - Applicant resolves deficiencies at ASAP -30 is changed to by -20
 - Finally, the edited benchmark/timeline text providing workshop definition is changed to -20 to -5.

There are no other changes to the PD.

7. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and W. Anthony Colbert is the assigned ALJ in this proceeding.

Findings of Fact

1. The instant OIR (R.11-11-007) was issued pursuant to the Commission's D.10-02-016 to perform a comprehensive review of the CHCF-A program.
2. The CHCF-A rules are summarized in Appendix A, Section D (Rate Proceedings and Funding Levels) to D.91-09-042.
3. Small ILEC wishing to receive CHCF-A support must periodically file GRCs with the Commission.
4. CHCF-A subsidies are subject to a six-year phase down cycle, which is known as the waterfall mechanism.
5. A company receives full (100%) funding for three years following the GRC decision.
6. In the fourth year, the company receives funding at 80% of the GRC decision; in the fifth year 50% and in the sixth year 0% unless a new rate case is filed.
7. In August 2014, the California Legislature passed AB 1693.
8. On September 20, 2014, Governor Brown vetoed AB 1693 and in his veto message, the Governor encouraged the Commission to create a GRC Plan to spur timely completion of the Small ILECs' GRCs.
9. On December 9, 2014, the assigned Commissioner issued a Second Amended Scoping Ruling.
10. The Second Amended Scoping Ruling revised the scope of the instant proceeding to address the implementation of a GRC Plan for the Small ILECs that draw from the CHCF-A program as well as possible adjustments to the waterfall mechanism.
11. A draft RCP, prepared by CD, was attached to the Second Amended Scoping Ruling.

12. The RCP in Appendix A to this decision provides an expeditious rate case plan that is efficient of parties' resources, including the Commission's.

13. The updated benchmarks and associated timespan for GRC applications and proceedings in Section 2/Table 2 of the RCP (Appendix A) are reasonable because they will facilitate an expeditious GRC process for the small ILECs.

14. A consolidated Cost of Capital proceeding as set forth in Section 3/Table 3 of the RCP will provide regulatory efficiency through a standard process for determining small ILEC authorized rates of return.

15. The Small ILECs that draw from the CHCF-A Fund are subject to the Commission's waterfall mechanism.

16. The Small ILECs must submit succeeding GRC applications by the end of the third year following the last Test Year to recover CHCF-A funding at the 100% waterfall threshold.

17. It would be unreasonable to penalize carriers that are currently drawing 100% of their CHCF-A funding by making them subject to the waterfall while not allowing these carriers to file a GRC until a future year.

Conclusions of Law

1. The Commission should adopt a RCP for CHCF-A recipients.
2. A RCP will provide a consistent, transparent and streamlined procedure to process the GRCs of the Small ILECs.
3. The RCP, as shown in Appendix A, Section 1/Table 1 to this interim decision, should be adopted.
4. Data Requests and the Notice of Intent filing requirements, as shown in Appendix A, Section 2/Table 2 to this interim decision, should be adopted.
5. A schedule for the COC proceeding, as shown in Appendix A, Section 3/Table 3, to this interim decision, should be adopted.

6. The waterfall mechanism should be suspended while Groups A through C are submitting their respective first rounds of GRC applications.

7. The RCP in Appendix A provides for a balance of small, medium and large ILECs to submit their GRC applications.

8. The results of the COC proceeding should be applied in any pending and future GRC application cycles for each of the ten current CHCF-A recipient companies.

9. All other features or requirements of the current CHCF-A program should remain in effect during the proposed stay and freeze.

10. The assigned ALJ should be authorized to modify the RCP and its schedule upon motion of a party or parties should a rearrangement or realignment be necessary for efficiency and the public interest.

11. A Small ILEC that does not file a GRC application during the first year of their scheduled cycle should be required to obtain an exemption from the Commission's Executive Director, pursuant to Rule 16.6, or wait until the first year of their next GRC cycle. During this period the waterfall provisions will not be tolled.

O R D E R

IT IS ORDERED that:

1. The Rate Case Plan, including the Minimum Data Requirements and the Notice of Intent filing, attached hereto as Appendix A is adopted and is to be applied in the General Rate Case Applications filed by the current California

High Cost Fund-A recipients, namely Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Kerman Telephone, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company and Volcano Telephone Company.

2. The Rate Case Plan in Appendix A includes a consolidated proceeding where the issue of cost of capital will be examined for each of the ten current California High Cost Fund-A recipient companies, namely Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Kerman Telephone, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company and Volcano Telephone Company.

3. The results of the consolidated small Local Exchange Carrier Cost of Capital as set forth in Appendix A will be applied in in any pending and future General Rate Case application cycles for each of the ten current California High Cost Fund-A recipient companies, namely Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Kerman Telephone, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company and Volcano Telephone Company.

4. Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company and Volcano Telephone Company will retain the ability to file an application for emergency rate relief through the existing Commission process.

5. The assigned Administrative Law Judge in any future general rate case application by the companies listed in Ordering Paragraph 1 is authorized to modify the Rate Case Plan in Appendix A and its schedule upon motion of a party or parties should a rearrangement or realignment be necessary for efficiency and the public interest.

6. Any Company listed in Paragraph 1 that does not file a General Rate Case application during the first year of their scheduled cycle will be required to obtain an exemption from the Commission's Executive Director, pursuant to Rule 16.6 of the Commission's Rules of Practice and Procedure, or wait until the first year of their next General Rate Case cycle to file. During this period the waterfall provisions will not be tolled.

7. Rulemaking 11-11-007 remains open.

This order is effective today.

Dated June 25, 2015, at San Francisco, California.

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners

APPENDIX A

Rulemaking 11-11-007 CHCF-A Fund Rate Case Plan

R.11-11-007 CHCF-A Fund, Rate Case Plan: Appendix A

1. General Rate Case Plan:

Table 1 below sets forth a GRC application cycle for the Small ILECs, which allows for three GRC applications (Group A) the first year (2015), followed by four applications during year two and three applications during year three (Groups B and C, respectively), equaling a cycle of ten GRC submissions every three years. The below GRC cycle will continue as such, after the first cycle of submissions is completed. The Small ILECs shall continue to submit succeeding GRC applications by the end of the last Test Year to recover at the 100% waterfall threshold. The Commission may revise this Rate Case Plan following its next CHCF-A program review.

Table 1 provides a GRC cycle for the next ten years. It suspends the waterfall provision while Groups A through C are submitting their respective GRC applications with the initial cycle. Additionally, the two Small ILECs whose respective waterfalls are currently at 80% (Volcano and Sierra) are included in the first and second GRC application cycles, respectively.

Groups A to C are as follows:

- Group A: Kerman (filing submitted and in process, 2016), Siskiyou, Volcano (Initial Test Year 2017)
- Group B: Calaveras, Cal-Ore, Ponderosa, Sierra, (Initial Test Year 2018)
- Group C: Ducor, Foresthill, Pinnacles (Initial Test Year 2019)

Table 1

2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Group A Files for GRC by 12/1	GRC Work	Test Year	100% No Means Test	100%	100% Group A Files for GRC by 12/1	GRC Work; 80% if no GRC filed	Test Year; 50% if no GRC filed	100% No Means Test; 0% if no GRC filed	100%; 0% if no GRC filed
	Group B Files for GRC by 10/1	GRC Work	Test Year	100% No Means Test	100%	100% Group B Files for GRC by 10/1	GRC Work; 80% if no GRC filed	Test Year; 50% if no GRC filed	100% No Means Test; 0% if no GRC filed
		Group C Files for GRC	GRC Work	Test Year	100% No Means Test	100%	100% Group C Files for GRC	GRC Work; 80% if	Test Year; 50% if

		By 10/1				by 10/1	no GRC filed	no GRC filed
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2. Data Requests and Notice of Intent prior to GRC filing:

Table 2 below sets forth benchmarks and associated timelines for the GRC applications. The Small ILECs shall submit a Notice of Intent to CD no less than 60 days prior to the application date. ORA shall provide the Small ILECs with data requests to be completed and submitted by the Small ILECs with initial GRC work papers. Data requests should be highly detailed and cover the areas identified by ORA in their GRC experiences, including but not limited to, questions about salaries, expenses, and current and future rate base projects. Data responses shall be provided in traceable, Excel format, as appropriate. In addition, an onsite meeting between the Small ILEC, CD staff, ORA, and other interested parties may be held after the application submission to discuss/evaluate various rate-base associated projects and other rate case issues.

Table 2

Benchmark/Timeline	Day (Count)
Applicant submits Notice of Intent to CD	-60
Applicant provides initial proposals, basic ratemaking and summary calculations to ORA, CD, and other interested parties. Parties make good faith effort to reach agreement on procedural, discovery and confidentiality protocols.	From -60 to -30
ORA sends Master Data Request to Applicant	-55
Applicant responds to ORA's Master Data Request (MDR)	-41
CD provides deficiency or compliance letter to the Applicant any dispute between the Applicant and ORA on the MDRs is to be resolved by the Director of CD.	-30

Applicant resolves deficiencies	ASAP: -30 but by -20
At request of any party, CD convenes informal workshop for parties to meet and confer, and to address any potential application deficiencies/matters.	From -20 to -5
GRC Application Filed and Testimony served	0
Protest/Intervenor Deadline	30
Reply to protest	40
Prehearing Conference	60
Parties perform discovery (including supplemental data requests and field visits); Public Participation Hearings held	0-150
Intervenor Testimony Due	150
Rebuttal Testimony Due	180
Evidentiary Hearings	210-220
Opening Briefs	250
Reply Briefs/ALJ closes record	271
Proposed Decision	331
Comments on PD	351
Commission Meeting/Decision	361-390
Implement new GRC rate structure	390-420

3. Cost of Capital Proceeding:

Table 3 below sets forth benchmarks/timeline for the cost of capital application and review.

Table 3

Benchmark/Timeline	Day (Count)
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Application Submitted by Small ILECs	Cost of Capital proceeding should be initiated during 2015, with application submission by 9/1/15
Submission of Applicant proposals and testimony	0
Intervenor proposals and testimony	60
Rebuttal testimony	75
Evidentiary Hearings	105-110
Opening Briefs	140
Reply Briefs	161
Proposed Decision	221
Comments on Proposed Decision	241
Commission Meeting (Final Decision)	251-280

(END OF APPENDIX A)