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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

ADMINISTRATIVE LAW JUDGES' RULING SEEKING COMMENT ON GENERAL GUIDELINES FOR ALLOWING WIRELINE COMPETITION IN AREAS SERVED BY SMALL LOCAL EXCHANGE CARRIERS

This Ruling clarifies the process for considering wireline competition in the small Local Exchange Carriers' (LECs) service areas and seeks comment on general guidelines for allowing competition in specific small LEC service areas on a case-by-case basis. In the Fourth Amended Assigned Commissioner's Scoping Memo and Ruling issued March 22, 2019, the following question was included:

In light of the Broadband Internet and Wireline Voice Competition Study (Study), should the Commission open the Rural Local Exchange Carriers (RLECs' or ILECs') service areas to wireline voice competition? If yes, please respond in your answer as to whether the Commission should include all or some RLEC service areas and include the factors the Commission should consider in allowing competition. (Scoping Memo at 4.)

Parties filed comments on this issue on May 21, 2019 and reply comments on July 5, 2019.

The original premise of the Study was to "allow for evidence-based decision-making based on local conditions." (Decision (D.) 14-12-084 at 46.) Based on the parties' comments on this question, we have determined that the

Study in and of itself is not sufficient to help resolve whether wireline competition should be allowed in each individual small LEC service territory based on local conditions and thus, we seek comment on a number of questions.

In their opening comments, the California Association of Competitive Telecommunications Companies and California Cable and Telecommunications Association (California Local Exchange Carriers) argued that the Commission should open the small LEC service territories to wireline competition. The Utility Reform Network argued against opening the small LECs service territories to wireline competition at this time. As several parties noted in their comments, and as indicated at the prehearing conference, a case-by-case approach to competition appears reasonable for determining specific findings of fact. Thus, the Commission will first consider adopting general criteria in this Rulemaking as a framework for allowing competition, which will then be evaluated on a case-by-case basis considering local conditions for each individual small LEC service territory where an application is filed by a potential competitive local exchange carrier (CLEC) seeking a certificate of public convenience and necessity (CPCN). We do not intend to hold evidentiary hearings on the question of allowing wireline competition within individual small LEC service territories in this Rulemaking. Instead, we anticipate specific questions of fact and policy will be taken up on a case-by-case basis in future proceedings to consider applications to provide wireline service in a particular small LEC's service territory.

This case-by-case approach will permit development of an evidentiary record that will support specific findings of fact on the impact of competition by CLECs on existing small LECs' service territories, including the impact on carrier of last resort (COLR) obligations, and what specific conditions should apply to

protect ratepayers in a particular small LEC service territory. An example of such a proceeding is Application 19-01-003, Comcast's application to expand its existing CPCN to provide limited facilities-based telecommunication service in the service territory of Ponderosa Telephone Co. We solicit comments on the questions listed below.

Comments

Comments should address each question presented. It is not necessary to reproduce the question, but responses should be numbered to match the questions addressed, or otherwise clearly identify the issue being discussed.

Comments should be as specific and precise as possible. Legal arguments should be supported with specific citations. Where appropriate and useful, quantitative examples should be provided. Comments should be complete in themselves and should not incorporate by reference any other materials. Other materials necessary to the response should be attached in clearly identified attachments, or, if the materials are available on a web site, the link to the materials should be given. All comments should use publicly available materials.

Parties may identify and comment on issues that are not addressed in the questions below. Commenters doing so should clearly identify and explain the relevance of the additional issue(s).

Comments of not more than 25 pages may be filed and served not later than December 9, 2019. Reply comments of not more than 15 pages may be filed and served not later than December 23, 2019.

Questions for Comment

1. What, if any, conditions are appropriate for the Commission to consider imposing on both CLECs and small LECs in the small LEC service areas under

Section 253(b) of the Federal Telecommunications Act of 1996? Specifically, please consider conditions related to:

- a) Requirements necessary to preserve and advance universal service;
- b) Protecting the public safety and welfare;
- c) Ensuring the continued quality of telecommunications services; and
- d) Safeguarding the rights of consumers.

2. What impact will CLEC competition have on the small LEC COLR responsibilities? What, if any, conditions should the Commission impose on the CLECs to prevent potential negative impact? For example, should the CLECs in the small LEC service areas provide COLR protections in order to compete?

3. What, if any, conditions are appropriate for the Commission to consider imposing on CLECs that would allow the small LECs to continue providing high quality and affordable service and to protect their customers from loss or degradation of service quality when faced with revenue losses from CLEC competition?

4. What would be the short-term and long-term impacts of allowing CLEC competition in small LEC territories? How could these be mitigated?

5. For each individual small LEC service territory, what area and fact specific data should the Commission consider in evaluating competitive entry?

6. Considering the potential impacts of CLEC competition, should the Commission consider changing the California High Cost Fund-A framework? Specifically, what adjustments, if any, to the ratesetting process and A-Fund regulatory framework could ensure customers in these areas continue to receive affordable and reliable services?

7. Appendices A and B to D.95-07-054 set forth rules that the Commission adopted for CLEC competition in the territories of respondents in that

proceeding. Should the Commission consider developing comparable rules for CLECs wishing to compete in small LEC service territories? Are additional consumer protections necessary requiring revision to Appendix B? In the alternative, should the Commission consider revising or updating the local competition CLEC rules in Appendices A and B to D.95-07-054, and apply those to all CLECs operating in the state?

IT IS RULED that:

1. Comments of not more than 25 pages (exclusive of any attachments which shall not total more than 50 pages in length) may be filed and served not later than December 9, 2019 in accordance with the instructions in this Ruling.

2. Reply comments of not more than 15 pages may be filed and served not later than December 23, 2019 in accordance with the instructions in this ruling.

3. In addition, this Ruling will be served on the service list in the following proceedings: Rulemaking 95-04-043 and Investigation 95-04-044.

Dated November 8, 2019, at San Francisco, California.

/s/ MARY MCKENZIE
Mary McKenzie
Administrative Law Judge

/s/ MARY MCKENZIE for
Hazlyn Fortune
Administrative Law Judge