BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules)	R. 11-12-001 (Filed December 1, 2011)

REPLY COMMENTS OF

CALAVERAS TELEPHONE COMPANY (U 1004 C)
CAL-ORE TELEPHONE CO. (U 1006 C)
DUCOR TELEPHONE COMPANY (U 1007 C)
FORESTHILL TELEPHONE CO. (U 1009 C)
HAPPY VALLEY TELEPHONE COMPANY (U 1010 C)
HORNITOS TELEPHONE COMPANY (U 1011 C)
KERMAN TELEPHONE CO. (U 1012 C)
PINNACLES TELEPHONE CO. (U 1013 C)
THE PONDEROSA TELEPHONE CO. (U 1014 C)
SIERRA TELEPHONE COMPANY, INC. (U 1016 C)
THE SISKIYOU TELEPHONE COMPANY (U 1017 C)
VOLCANO TELEPHONE COMPANY (U 1019 C)
WINTERHAVEN TELEPHONE COMPANY (U 1021 C)
("SMALL LECs")

ON THE

ASSIGNED ADMINISTRATIVE LAW JUDGE'S RULING SETTING DATES FOR COMMENTS AND REPLY COMMENTS ON STAFF PROPOSAL

Mark P. Schreiber
Patrick M. Rosvall
Lisa P. Tse
COOPER, WHITE & COOPER LLP
201 California Street, 17th Floor
San Francisco, CA 94111
Telephone: (415) 433-1900
Facsimile: (415) 433-5530
E-mail: smalllecs@cwclaw.com

Attorneys for the Small LECs

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I

INTRODUCTION

Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C) and Winterhaven Telephone Company (U 1021) (collectively, the "Small LECs") hereby submit their reply comments on the Staff Proposal for Proposed Modifications to General Order 133-C (the "Staff Proposal") attached to the Administrative Law Judge Ruling dated February 2, 2015. In their opening comments, the Small LECs explained that the general rate case process presents an additional reason why they should not be subject to the proposed refund and penalty mechanisms. In addition, the Small LECs recommended that the Commission reject the proposed changes to the reporting requirements and rectify some additional problems in the Staff Proposal.

II

THE SERVICE QUALITY REVIEW IN THE GENERAL RATE CASE PROCESS PRESENTS AN ADDITIONAL GROUND FOR EXCLUDING THE SMALL LECS FROM THE PROPOSED REFUND AND PENALTY MECHANISMS.

In their opening comments, some parties took issue with the Staff Proposal's exclusion of the Small LECs from its recommended refund and penalty mechanisms. For example, Cox Communications argued that it would be discriminatory to exempt the Small LECs from the penalty and refund mechanisms based on their past performances but not other carriers that have comparable G. O. 133-C records. (E.g., Cox Communications Comments, pp. 3, 16.)

As the Small LECs explained in their opening comments, their service quality records are not the only reasons to exclude them from the proposed refund and penalty recommendations. As utilities under cost-of-service rate-of-return regulation, the Small LECs are subject to the general rate case process, which involves a detailed examination of service quality, including consideration of the G. O. 133-C filings from the companies, comments from subscribers at public participation hearings, and evidence presented by the utilities. Accordingly, there are additional reasons to exclude the Small LECs from the penalty and refund mechanisms even if the Commission applies these requirements to carriers with comparable service quality results.

Indeed, the comments do present convincing reasons why the penalty and refund mechanisms should not be extended to carriers other than perhaps AT&T and Verizon, which were to be the focus of this phase of the proceeding. As Cox explained, the record does not support adoption of industry-wide rules. Cox Comments, p. 4. Frontier noted that the Commission can open an investigation into service quality issues at any time if warranted by a carrier's G. O. 133-C filings. Frontier Comments, p. 8. If service quality is found to be inadequate in a rate case or a separate investigation, the Commission can then implement performance improvement plans and specific mitigation measures.

ORA, by contrast, recommends that the penalty and refund mechanisms be extended to all telephone corporations. ORA Comments, p. 4. However, no evidence presented in this proceeding or elsewhere could reasonably be found to justify the need for implementing penalty and refund mechanisms on an industry-wide basis. Adopting industry-wide rules would provide no additional incentive to carriers who are already providing high service quality. Therefore, given the call of many parties for the Commission to complete its infrastructure audit of AT&T and Verizon without further delay (e.g., ORA, p. 8, Communications Workers of America, p. 4, Joint Consumers Comments, pp. 6-7), the Commission should reject the recommendation to adopt industry-wide penalty and refund mechanisms and note the observation of Cox that "[p]lowing ahead with consideration of new *and* expanded rules that apply to all providers but attempt to remedy the performance of AT&T and Verizon is procedurally and substantively inappropriate." Cox Comments, p. 5.

III

THE STAFF PROPOSALS TO CHANGE REPORTING REQUIREMENTS AND ADD ADDITIONAL NEW REPORTING REQUIREMENTS SHOULD NOT BE ADOPTED.

In their opening comments, the Small LECs identified problems with the recommendations in the Staff Proposal to require reporting of Out of Service ("OOS") without adjustment for the exclusion of "Sundays, federal holidays, catastrophic events, and events beyond the control of the company, including customer requested appointments," to require reporting to be broken down by type of voice service and class of customer, and to increase the reporting level for events covered by the FCC's Network Outage Reporting System ("NORS") process. In addition, the Small LECs recommended that the Commission modify the reporting threshold for "catastrophic events" to include a minimum number of affected customers rather than relying on the 3% standard in all situations. The other carriers submitting opening comments agreed with many of these observations and pointed out additional problems with the recommended changes to the reporting requirements. See AT&T Comments, 21-30; Consolidated Comments, pp. 3-4; Cox Comments, pp. 6-14; Frontier Comments, pp. 6-7, 8-9; and Verizon Comments, pp. 2-4, 10-17. In light of the significant problems identified by the carriers with the proposed modifications to the reporting requirements, the Commission should not adopt the recommended changes set forth in the Staff Proposal.

IV

CONCLUSION

The Small LECs agree with the Staff Proposal that their high levels of service quality merit their exclusion from the proposed penalty and refund mechanisms. In this regard, the general rate case process provides a separate and additional basis for excluding them from these mechanisms even if the Commission chooses to apply them to other carriers with comparable service quality reports. In addition, for the reasons set forth above, the Small LECs believe that the proposed changes and additions to the reporting requirements should not be adopted.

Dated this 17th day of April 2015.

Mark P. Schreiber
Patrick M. Rosvall
Lisa P. Tse
COOPER, WHITE & COOPER LLP
201 California Street, 17th Floor
San Francisco, CA 94111
Telephone: (415) 433-1900
Facsimile: (415) 433-5530
E-mail: smalllecs@cwclaw.com

By ______________________
Lisa P. Tse
Attorneys for the Small LECs