



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

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Application of Comcast Phone of California, LLC (U-5698-C) to expand its existing Certificate of Public Convenience and Necessity to provide limited facilities-based telecommunication service in the service territory of Ponderosa Telephone Co.

A.19-01-003

**MOTION OF THE PONDEROSA TELEPHONE CO. TO STAY OR HOLD IN
ABEYANCE THE APPLICATION OF COMCAST PHONE OF
CALIFORNIA, LLC TO EXPAND THE TERRITORIAL SCOPE OF ITS
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

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Pursuant to Rule 11.1(a) of the Rules of Practice and Procedure of the Public Utilities Commission (the “Commission”), The Ponderosa Telephone Co. (“Ponderosa”) respectfully requests that the Commission stay or otherwise hold in abeyance the Application filed on January 4, 2019 by Comcast Phone of California, LLC (“Comcast”) to amend its CPCN until the completion of Phase 2 of the CHCF-A rulemaking proceeding, R.11-11-007 (the “CHCF-A Rulemaking Proceeding”).

I. BACKGROUND

On November 18, 2011, the Commission issued an Order Instituting Rulemaking to review the CHCF-A program. One of the issues being considered in the two-phase proceeding is whether Small ILEC territories should be opened to wireline competition from CLECs.

In Phase 1 of the CHCF-A Rulemaking Proceeding, the Commission made a preliminary determination against opening the Small ILECs’ service territory to competition, but held that it would revisit that determination in Phase 2 after commissioning a fact-finding study.¹ Ordering Paragraph No. 7 in the decision expressly stated that the Commission would defer consideration of any request to amend a CPCN to include a Small ILEC territory until after Phase 2 is complete:

Any request filed and received subsequent to this Phase 1 decision to amend certificates of public convenience and necessity to include Small Incumbent Local Exchange Carrier areas ... will be deferred until the Broadband Networks and Universal Service studies are completed in Phase 2 of this proceeding and the Commission has evaluated the study to determine in

¹ D.14-12-084 at 39, 45–46.

Phase 2 whether or not some or all of the Small ILEC areas should be opened to CLEC competition.²

In connection with Phase 2 of the proceeding, Commission staff commissioned a study from Mission Consulting, LLC, which was published in September 2018.³

Consistent with D.14-12-084, in Phase 2 of the proceeding the Commission will analyze the findings of the Mission Consulting study to reevaluate whether to open some or all of the Small ILEC areas to competition from CLECs. That process has not yet occurred.⁴

On January 4, 2019, Comcast filed an Application to expand the territorial scope of its CPCN to include Ponderosa's service territory.⁵

II. ARGUMENT

Comcast's Application should be stayed or held in abeyance until a decision in Phase 2 of the CHCF-A Rulemaking Proceeding is issued, consistent with Ordering Paragraph No. 7 in the Commission's Phase 1 decision. The Commission held that it would defer consideration of any request to amend a CPCN to include a Small ILEC

² *Id.* at 101–102; *see also id.* at 100 (Conclusion of Law No. 43) (“Any request filed and received subsequent to this Phase I decision to amend CPCNs to include Small ILEC areas ... will be deferred until the Broadband Networks and Universal Service studies are completed in Phase 2 of this proceeding and the Commission has evaluated the study to determine in Phase 2 whether or not some or all of the Small ILEC areas should be opened to CLEC competition.”)

³ Mission Consulting, LLC, *Broadband Internet and Wireline Voice Competition Study in Service Territories of Small Incumbent Local Exchange Carriers* (commissioned by D.14-12-084) (“Mission Consulting Study”).

⁴ *See* R.11-11-007, Third Amended Scoping Memo and Ruling of Assigned Commissioner (April 4, 2017) at 9 (establishing briefing and hearing schedule for Phase 2 following completion of the Mission Consulting study).

⁵ A.19-01-003 (“Application”) at 1.

territory until two conditions were satisfied: first, until a study of the competition issue was completed, and second, until the Commission “evaluated the study” to determine whether or not to open particular Small ILEC territories to competition.⁶ Because only the first of these conditions has been met, the Commission should stay Comcast’s Application.

There is no reason for the Commission to deviate from the course of conduct it set forth in the Phase 1 decision. As explained more fully in Ponderosa’s concurrently filed Protest to Comcast’s Application, the Commission determined that the reevaluation of the wireline competition issue in Phase 2 will entail detailed, territory-specific assessments of facts and policy considerations:

That determination [whether to open a Small ILEC territory to CLEC competition] will be based on the facts and assessment of that area, weighing universal service, public safety, reliability, consumer protection, and High Cost A Fund costs and impacts, the effect on federal funding, efficiency, and the benefits or consequences of competition, and the standards and requirements of federal and state law.⁷

The appropriate forum for this analysis is Phase 2 of the CHCF-A Rulemaking Proceeding, not Comcast’s Application. It would be inefficient to act on individual requests to amend CPCNs to include Small ILEC territories at the same time that the Commission is engaged in a broad review to determine whether wireline competition in those territories ought to be permitted at all. That was presumably why the Commission

⁶ D.14-12-084 at 46; see also *id.* at 101–102 (order no. 7).

⁷ *Id.* at 46.

determined that it would defer consideration of all such requests until the end of Phase 2, and nothing in Comcast's Application casts doubt on the Commission's judgment.

III. CONCLUSION

For the foregoing reasons, the Commission should stay or hold in abeyance Comcast's Application to include Ponderosa's territory in its CPCN until the Commission issues a decision in Phase 2 of the CHCF-A Rulemaking Proceeding.

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Respectfully submitted,

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