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

Order Instituting Rulemaking into the) R. 11-11-007
Review of the California High Cost)
Fund-A Program.) (Filed November 10, 2011)
_____)

**REPLY COMMENTS OF
HAPPY VALLEY TELEPHONE COMPANY (U 1010 C)
HORNITOS TELEPHONE COMPANY (U 1011 C)
WINTERHAVEN TELEPHONE COMPANY (U 1021 C)
(the "TDS Companies")
ON THE ADMINISTRATIVE LAW JUDGES' RULING SEEKING COMMENT ON
GENERAL GUIDELINES FOR ALLOWING WIRELINE COMPETITION IN AREAS
SERVED THE SMALL LOCAL EXCHANGE CARRIERS**

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Attorneys for the TDS Companies

1 **I. INTRODUCTION.**

2 Pursuant to the instructions in the Administrative Law Judges' ("ALJs") Ruling Seeking
3 Comment on General Guidelines for Allowing Wireline Competition in Areas Served by Small
4 Local Exchange Carriers ("Competition Ruling") dated November 8, 2019, and ALJ McKenzie's
5 November 18, 2019 email granting the Independent Small LECs' Motion for Extension of Time to
6 File Opening Comments and Reply Comments to January 6 and January 21, 2020, respectively,
7 Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), and
8 Winterhaven Telephone Company (U 1021 C) (collectively, the "TDS Companies") hereby
9 provide these reply comments addressing certain issues raised in the Opening Comments of The
10 Utility Reform Network ("TURN"), the Independent Small LECs and the California Cable &
11 Telecommunications Association ("CCTA").

12 The Opening Comments of TURN and the Independent Small LECs reflect their
13 agreement with the principle stated in the TDS Companies' Opening Comments that if competition
14 is authorized by Competitive Local Exchange Carriers ("CLECs") in the small LECs' service
15 territories, the Commission should adopt measures to ensure that rural telephone companies can
16 compete on an equal playing field with CLECs. *See, e.g., TURN Opening Comments*, at p. 3;
17 *Independent Small LECs Opening Comments*, at pp. 2, 10-11. TURN and CCTA point to benefits
18 to universal service, competitive choice and broadband access that could result from opening the
19 small LECs' service territories to competition. *TURN Opening Comments*, at pp. 3-4; *CCTA*
20 *Opening Comments*, at p. 23. At least for the companies like the TDS Companies that are not
21 currently receiving CHCF-A support, these principles can be most efficiently and effectively
22 advanced by implementing the proposal recommended by the TDS Companies in their Opening
23 Comments—providing the small LECs with regulatory parity comparable to that of the Uniform
24 Regulatory Framework ("URF") carriers simultaneously with a Commission decision opening up
25 a small LEC service territory to competition.

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1 **II. THE PUBLIC POLICY CONCERNS RELATING TO COMPETITIVE ENTRY**
2 **THAT TURN AND THE INDEPENDENT SMALL LECs RAISE IN THEIR**
3 **OPENING COMMENTS CAN BE BEST ACHIEVED BY ENSURING THE**
4 **SMALL LECs CAN COMPETE ON A LEVEL PLAYING FIELD.**

5 TURN proposes that the Commission adopt measures to ensure that any competitive entry
6 authorized in the Independent Small LECs' territories satisfy three state and federal public policy
7 goals: (1) universal service; (2) competitive choice; and (3) broadband access. *TURN Opening*
8 *Comments*, at pp. 3-4. TURN specifically notes its support for "the Commission's work to ensure
9 a fair and level playing field and to encourage the innovation and low rates that competition could
10 bring to California." *Id.* at p. 3. Similarly, to the extent the Commission allows competitive entry,
11 the Independent Small LECs request that the Commission "take steps to ensure that Independent
12 Small LECs have a reasonable opportunity to respond to pricing offered by competitors" and
13 "promote regulatory parity." *Independent Small LECs' Opening Comments*, at pp. 10-11, 13. The
14 TDS Companies agree with these comments of TURN and the Independent Small LECs. As the
15 Independent Small LECs correctly note, "the regulatory disparities between CLECs and the
16 Independent Small LECs create material risks that CLECs will leverage their more flexible
17 regulatory platform to achieve results that the Independent Small LECs cannot replicate." *Id.* at p.
18 4.

19 To achieve these public policy goals and mitigate the impact of cream skimming and
20 selective marketing to lucrative customers, TURN recommends that the Commission adopt
21 conditions on CLECs, but also claims that the current rate setting and regulatory structure will also
22 help ensure that the small LECs can continue to offer high quality and affordable services. *TURN*
23 *Opening Comments*, at p. 8. The Independent Small LECs likewise suggest that the Commission
24 impose certain conditions on CLECs to promote regulatory parity and avoid these consumer
25 harms. *Independent Small LECs' Opening Comments*, at pp. 2, 4-8. In addition, the Independent
26 Small LECs recommend the Commission adopt certain measures to provide greater pricing
27 flexibility, including relaxing restrictions on bundling, to allow the Independent Small LECs to
28 compete with CLECs. *Id.* at pp. 10-11, 13. The TDS Companies agree that the Commission
should adopt measures to mitigate the negative consequences of opening the small LECs'

1 territories to CLEC competition, such as unfair competition and cream skimming. The TDS
2 Companies also agree with TURN that the Commission should reject as against public policy
3 CLEC competitive entry that is based solely on exclusive contracts for lucrative customers. *TURN*
4 *Opening Comments*, at p. 10.

5 The TDS Companies do not agree with the comments of TURN that the current rate setting
6 and regulatory structure is sufficient to achieve the state and federal public policy goals or to
7 mitigate the harms that would result from authorizing CLEC competitive entry. *TURN Opening*
8 *Comments*, at p. 8; *see also* p. 4 (arguing that the current Small LEC regulatory compact should
9 continue within a competitive framework). Indeed, the TDS Companies have not participated in
10 the CHCF-A rate setting process because they find that the current process is labor intensive and
11 cost prohibitive with the cost of processing a rate case exceeding the potential benefit. *See Direct*
12 *Testimony of Chad Duval on Behalf of the Independent Small LECs* (Nov. 15, 2019), at p. 50
13 ("Recent experience shows that a rate case will likely exceed \$500,000 in a fully-litigated formal
14 case."), pp. 54-55 (describing burdensome tasks involved in a formal rate case). If the current
15 regulatory framework is continued, without modification, the Small LECs would not be able to
16 compete on a level playing field. For small LEC carriers that participate in the CHCF-A fund, the
17 TDS Companies support the Independent Small LECs' recommendation that the Commission
18 permit streamlined advice letters instead of the current burdensome formal rate case process.
19 *Independent Small LECs Opening Comments*, at p. 11. In addition, all small LECs should be
20 permitted to file Tier 1 advice letters for changes to basic service rates to effectively compete with
21 CLEC competitors to the extent CLEC competition is authorized in their service areas. For small
22 LEC carriers like the TDS Companies that do not participate in the CHCF-A fund, however, the
23 Commission should allow them to transition to an URF regulatory framework if the Commission
24 permits CLEC competition in their service areas. Allowing pricing flexibility under an URF
25 regulatory framework will promote competitive choice and support the goals of universal service
26 by encouraging competitive pricing options for stand alone services and bundles.

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1 **III. AN URF REGULATORY FRAMEWORK FOR THE SMALL LECs IS THE MOST**
2 **EXPEDIENT MEANS TO PROMOTE THE BENEFITS OF CLEC COMPETITIVE**
3 **ENTRY ADVANCED BY CCTA.**

4 The TDS Companies do not agree with CCTA's comments to the extent they request that
5 the Commission authorize competitive entry without any limitations, which are necessary to
6 promote public policy goals and mitigate adverse impacts. The TDS Companies believe that the
7 competitive benefits advanced by CCTA, such as "more innovative, lower-cost, and greater
8 variety of service," would be best achieved by transitioning the TDS Companies to an URF
9 regulatory framework upon approval of any CLEC competitive entry in their service territories.
10 *CCTA Opening Comments*, at p. 2. The TDS Companies agree that "[t]he ability to offer
11 telephony as a bundled part of a service offering generally improves the business case in favor of
12 market entry." *Id.* at p. 23. An URF regulatory status will permit the TDS Companies to offer
13 bundled packages that are in the public interest without incurring additional regulatory costs. It
14 will also permit the TDS Companies to more adequately respond to the competition they already
15 face from wireless and VoIP competitors in their service areas. *See also CCTA Opening*
16 *Comments*, at pp. 8. 15. As CCTA and the Independent Small LECs point out in their Opening
17 Comments, modifying the CLEC rules is outside the scope of this proceeding. *CCTA Opening*
18 *Comments*, at p. 21; *Independent Small LECs Opening Comments*, at p. 14. As CCTA also notes,
19 a decision on competitive entry is a discrete issue that is not contingent on the broadband
20 imputation, ratemaking and other issues being considered in this proceeding. *CCTA Opening*
21 *Comments*, at p. 2. The TDS Companies agree with these comments, which militate in favor of
22 allowing the small LECs to move to an URF regulatory framework if CLEC competitive entry is
23 authorized in their service areas. This is a more appropriate and expedient proposal that is within
24 the scope of this proceeding.

24 **IV. CONCLUSION.**

25 To the extent that CLEC competition is opened in the small LECs' service territories, the
26 TDS Companies urge the Commission to adopt the measures recommended above and in their
27 Opening Comments to best achieve the Commission's public policy goals and mitigate the harms
28 that would result from CLEC competitive entry.

