

Decision 99-12-037 December 16, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Annual Depreciation
Application of Citizens Telecommunications
Company of California Inc. (U 1024 C)

Application 99-04-017
(Filed April 12, 1999)

O P I N I O N

This decision adopts an all-party settlement between Citizens Telecommunications Company of California Inc. (CTCC) and the Office of Ratepayer Advocates (ORA) which adopts depreciation rates for 2000. No change is made to depreciation rates for 1999.

Background

By Decision (D.) 95-11-024, CTCC is required to file an application for approval of depreciation rates by June 30 of each year. The rates would be effective January 1 of the following year. CTCC's 1998 depreciation rates were approved by D. 97-12-036. They were the same as those adopted for 1997.

By letter dated June 17, 1998, the Commission's Executive Director granted CTCC an extension of time to file its 1999 depreciation rates. This was due to a delay in resolving the timing of CTCC's next New Regulatory Framework Review. By letter dated March 12, 1999 the Commission's Executive Director required CTCC to file its 1999 depreciation application within 30 days.

On April 12, 1999, CTCC filed its application for approval of its 1999 depreciation rates. CTCC proposed no changes in its depreciation rates.

On May 20, 1999, ORA filed a protest to the application. The protest stated that CTCC should revise its rates to use economic lives for all technology accounts.

A prehearing conference (PHC) was held on June 19, 1999. At the PHC, CTCC made a motion to consolidate this application with its 2000 depreciation rate filing due June 30, 1999, and to prepare an economic lives study. ORA did not object to the motion and it was granted. As a result, no filing for approval of 2000 rates was made on June 30, 1999. Instead, 2000 rates were addressed in this proceeding.

On September 14, 1999, CTCC served the testimony of Steven C. Spencer. The testimony proposed revised depreciation rates using economic lives for technology accounts. CTCC also technically updated its nontechnology accounts. ORA analyzed CTCC's testimony and decided not to serve testimony.

On October 13, 1999, CTCC and ORA filed a joint motion for adoption of a proposed settlement agreement (settlement). Since CTCC and ORA are the only parties, the settlement is an all-party settlement.

Procedural Matters

In Resolution ALJ 176-3014, dated April 22, 1999 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. In the scoping memo and assigned Commissioner's ruling dated July 9, 1999 the matter was set for hearing. However, due to the proposed all-party settlement, no hearings were necessary and none were held.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Settlement Procedure

CTCC and ORA represent that they have complied with all applicable requirements for settlements under Article 13.5 of the Commission's Rules of Practice and Procedure. Since CTCC and ORA are the only parties to this proceeding, it was not necessary to convene a noticed conference under Rule 51.1. The motion is timely under Rule 51.2. CTCC and ORA also request that the Commission waive the provisions for comments on, and the contesting of, the settlement under Rules 51.5 and 51.6, because there are no other parties to this proceeding.

We agree that the requirements for a settlement have been met, and that since this is an all-party settlement, Rules 51.5 and 51.6 should be waived.

Summary of the Settlement

The depreciation rates adopted in the settlement are based on economic lives for technology accounts. Nontechnology accounts were also updated. Technology accounts are those plant accounts involving digital switching and circuit equipment, and cable. CTCC reviewed economic lives recommendations made by Technology Futures Inc. (TFI). The TFI recommendation was made in 1997 to the Regional Bell Operating Companies' Technology Forecasting Group, which, since 1990, has hired TFI to study depreciation forecasting since 1990.

CTCC took economic lives from the TFI study and modified them to reflect CTCC's size, amount of investment, composition of the plant, age of technology and operating conditions to derive CTCC specific projection lives for technology accounts. CTCC and ORA believe that the use of the modified economic lives from the TFI study for technology accounts and the updates of the nontechnology accounts will result in reasonable accrual over the remaining life of all plant without stranded investment and will not adversely impact customers.

The settlement is included as Attachment A to this decision. The depreciation rates adopted by the settlement and referred to in the settlement as being contained in CTCC's Depreciation Review, Statement A, are included in Attachment B.

Standards for Approval of All-Party Settlements

Rule 51.1(e) of the Commission's Rules of Practice and Procedure requires that any settlement must be:

1. Reasonable in light of the entire record;
2. In the public interest; and
3. Consistent with applicable law.

In *Re San Diego Gas & Electric* (1992) 46 CPUC2d 538, the Commission established a four-part test for approval of all-party settlements. Under this test the agreement must:

1. Command the unanimous sponsorship of all active parties in the proceeding;
2. Have parties which are fairly reflective of the affected interests;
3. Not propose terms which contravene statutory provisions or prior Commission decisions; and
4. Convey sufficient information to permit the Commission to discharge its future regulatory obligations regarding the parties and their interests.

The settlement is proposed by CTCC and ORA, the only parties in the proceeding. The first part of the test is, therefore, satisfied.

CTCC represents itself, and ORA represents all ratepayers. The parties are, therefore, reflective of the affected interests. The second part of the test is satisfied.

This settlement does not propose terms which contravene statutory provisions or prior Commission decisions. The third part of the test is satisfied.

The settlement sets depreciation rates for 2000 and does not change the 1999 rates from those previously found reasonable. Therefore, the settlement conveys sufficient information to permit the Commission to discharge its future regulatory obligations regarding the parties and their interests. The fourth part of the test is satisfied.

Conclusion

Since all four parts of the test are satisfied, we conclude that Rule 51.1(e) is satisfied and will adopt the settlement.

Findings of Fact

1. On October 13, 1999, CTCC and ORA filed a joint motion for adoption of a proposed settlement agreement.
2. The settlement sets new depreciation rates for 2000 and makes no change to rates for 1999.
3. The settlement is an all-party settlement.
4. CTCC and ORA have complied with all applicable procedural requirements for settlements.
5. The settlement commands the unanimous sponsorship of all parties in the proceeding.
6. CTCC and ORA together are fairly reflective of the affected interests.
7. The settlement does not propose terms which contravene statutory provisions or prior Commission decisions.
8. The settlement conveys sufficient information to permit the Commission to discharge its future regulatory obligations regarding the parties and their interests.

9. Hearings are not necessary.

Conclusions of Law

1. The settlement is reasonable in light of the entire record.
2. The settlement is in the public interest.
3. The settlement is consistent with applicable law.
4. The settlement should be adopted.
5. In order that CTCC may comply with D. 95-11-024, this order should be effective on issuance.

O R D E R

IT IS ORDERED that:

1. The "Settlement Agreement between Citizens Telecommunications Company of California Inc. and the Commission's Office of Ratepayer Advocates to Resolve the Sole Issue in Application 99-04-017," included as Attachment A, is adopted.
2. This proceeding is closed.

This order is effective today.

Dated December 16, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners

**SETTLEMENT AGREEMENT BETWEEN CITIZENS
TELECOMMUNICATIONS COMPANY OF CALIFORNIA INC.
AND THE COMMISSION'S OFFICE OF RATEPAYER ADVOCATES
TO RESOLVE THE SOLE ISSUE IN APPLICATION 99-04-017**

In accordance with Article 13.5 of the California Public Utilities Commission's Rules of Practice and Procedure, Citizens Telecommunications Company of California Inc. (CTCC) and the Commission's Office of Ratepayer Advocates (ORA) (the Parties) enter into this Settlement Agreement by and through their undersigned counsel to resolve fully the sole issue in Application 99-04-017.

I. BACKGROUND

- A. CTCC filed Application 99-04-017 on April 12, 1999 and sought to retain its current depreciation rates.
- B. On May 20, 1999, ORA filed a protest to Application 99-04-017, because CTCC had not done a represervation study or technical update of its depreciable plant accounts.
- C. On September 14, 1999, CTCC served the testimony of Steven C. Spencer. Exhibit 1 to the testimony, CTCC's Depreciation Review, uses economic lives for technology accounts and technically updates non-technology accounts.
- D. ORA reviewed CTCC's testimony. ORA's review shows that CTCC has used economic lives for technology accounts, as requested by ORA, and has correctly technically updated non-technology accounts. ORA did not serve testimony in this proceeding.
- E. CTCC and ORA conferred regarding CTCC's testimony and Depreciation Review.

II. AGREEMENT

In order to resolve ORA's outstanding protest, the Parties agree as follows:

- A. The depreciation rates contained in CTCC's Depreciation Review, Statement A, should be adopted by the Commission for 2000.
- B. CTCC will provide ORA with information on depreciation parameters and reserve balances annually if the Commission approves CTCC's request in A.99-03-027 to eliminate the annual depreciation application and approval requirement imposed by D.95-11-024.
- C. This Settlement Agreement represents a compromise of the disputed positions of the Parties and is fundamentally fair, reasonable in light of the whole record, consistent with the law and in the public interest.
- D. The provisions of this Settlement Agreement are not intended to serve as precedent in any other proceeding or settlement.
- E. The Parties will file a Joint Motion seeking Commission approval of the Settlement Agreement in its entirety and without change and shall use their best efforts to obtain Commission approval.
- F. The Commission approval contemplated by this Settlement Agreement is that the Commission will issue a final decision which approves this Settlement Agreement in full, in the form presented and without change.
- G. If the Commission does not adopt this Settlement Agreement in its entirety and without change, neither ORA nor CTCC shall be bound by the Settlement Agreement or any portion of the Settlement Agreement.
- H. The Parties will not enter into any ex parte communications with any Commission decisionmaker regarding any issue resolved by this Settlement Agreement except in the presence of the other Party.
- I. The Parties will not contest this Settlement Agreement before any regulatory agency or court of law where this Settlement Agreement, its meaning or effect is an issue.
- J. The Commission shall have exclusive jurisdiction over any issues related to this Settlement Agreement and no other court, regulatory

agency or other governing body shall have jurisdiction over any issue related to the interpretation of this Settlement Agreement, or the rights of the Parties to this Settlement Agreement, with the exception of any court that may now or in the future, by statute or otherwise, have jurisdiction to review Commission decisions.

- K. No signatory to this Settlement Agreement, officer, director or employee of either Party, or any member of the staff of the Commission assumes any personal liability as a result of this Settlement Agreement. No legal action related to this Settlement Agreement may be brought in any state or federal court, or in any other forum with the exception of the Commission, against ORA or CTCC, any individual representing ORA or CTCC, or any officer, director or employee of either Party.
- L. This Settlement Agreement contains the entire agreement and understanding between the Parties as to the subject matter of this Settlement Agreement, and supersedes all prior agreements, commitments, representations and discussions between the Parties with respect to the subject matter of this Settlement Agreement.
- M. None of the provisions of this Settlement Agreement shall be considered waived by either Party unless such waiver is given in writing. The failure of a Party to insist in any instance upon strict performance of any provisions of this Settlement Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future.
- N. It is the intent of the Parties that this Settlement Agreement be interpreted, governed and construed under the laws of the State of California. This Settlement Agreement is to be deemed to have been jointly prepared by both ORA and CTCC and any uncertainty or

ambiguity existing herein shall not be interpreted against either Party on the basis that such Party drafted or prepared this Settlement Agreement.

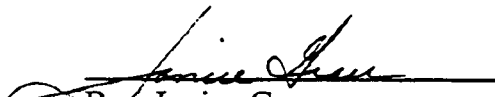
- O. Unless specifically set forth in this Settlement Agreement, neither Party intends to alter or change its obligations imposed by the orders, rules, regulations or decisions of the Commission.

III. EXECUTION

- A. Subject to the condition of final Commission approval pursuant to Section II.F, this Settlement Agreement shall become binding upon the date it is signed by both parties.
- B. Each of the undersigned Parties agrees to abide by the conditions and recommendations set forth in this Settlement Agreement. The Parties agree that this Settlement Agreement may be executed in counterparts.


OFFICE OF RATEPAYER ADVOCATES

Dated: October 13, 1999


By: Janice Grau
Staff Counsel

CITIZENS TELECOMMUNICATIONS COMPANY OF CALIFORNIA
INC.

Dated: October 13, 1999



By: Jonathan B. Radin
Senior Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document
**“JOINT MOTION FOR ADOPTION OF SETTLEMENT
AGREEMENT”** upon all known parties of record in this proceeding by mailing
by first-class a copy thereof properly addressed to each party.

Dated at San Francisco, California this 13th day of October, 1999.

/s/ MARY BOVÉ HOLTON

Mary Bové Holton

(END OF ATTACHMENT A)

ATTACHMENT B
Summary of Depreciation Rates

<u>ACCOUNT AND DESCRIPTION</u>	<u>PROPOSED Rates (%) Effective January 1, 2000</u>
2112.00 MOTOR VEHICLES	8.4
2114.00 SPECIAL PURPOSE VEHICLES	3.4
2115.00 GARAGE WORK EQUIPMENT	0.1
2116.00 OTHER WORK EQUIPMENT	3.8
2121.00 BUILDINGS	4.3
2122.00 FURNITURE	4.7
2123.10 OFFICE SUPPORT EQUIPMENT	1.5
2123.20 COMPANY COMM. EQUIPMENT	0.0
2124.10 GEN. PURP. COMP.-MAINFRAME	22.2
2124.20 GEN. PURP. COM.-PCS	18.7
2212.00 DIGITAL ELECTRONIC SWITCHING	10.6
2220.00 OPERATOR SYSTEMS	8.3
2231.00 OTHER RADIO FACILITIES	6.7
2232.00 CIRCUIT EQUIPMENT	6.7
2351.00 PUBLIC TELEPHONE EQUIPMENT	1.9
2362.00 OTHER TERMINAL EQUIPMENT	13.8
2411.00 POLES	4.3
2421.10 AERIAL CABLE-METALLIC	5.5
2421.20 AERIAL CABLE-FIBER	5.4
2422.10 UNDERGROUND CABLE-METALLIC	7.3
2422.20 UNDERGROUND CABLE-FIBER	5.4
2423.10 BURIED CABLE-METALLIC	6.1
2423.20 BURIED CABLE-FIBER	5.1
2424.10 SUBMARINE CABLE-METAL	*
2431.00 AERIAL WIRE	16.2
2441.00 CONDUIT SYSTEMS	1.9

* Account fully depreciated and no future additions anticipated.

(END OF ATTACHMENT B)