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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the  
Commission's Own Motion to Comply with the  
Mandates of Senate Bill 1563 regarding  
deployment of Advanced Telecommunications  
Technologies.

R. 03-04-003

**OPENING COMMENTS OF**  
**CALAVERAS TELEPHONE COMPANY**  
**CAL-ORE TELEPHONE CO.**  
**DUCOR TELEPHONE COMPANY**  
**EVANS TELEPHONE COMPANY**  
**FORESTHILL TELEPHONE CO.**  
**HAPPY VALLEY TELEPHONE COMPANY**  
**HORNITOS TELEPHONE COMPANY**  
**KERMAN TELEPHONE CO.**  
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**THE PONDEROSA TELEPHONE CO.**  
**SIERRA TELEPHONE COMPANY, INC.**  
**THE SISKIYOU TELEPHONE COMPANY**  
**VOLCANO TELEPHONE COMPANY**  
**WINTERHAVEN TELEPHONE COMPANY**

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June 10, 2003

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2 OF THE STATE OF CALIFORNIA

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24 PURSUANT TO ORDER INSTITUTING RULEMAKING

25 Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Evans  
26 Telephone Company, Foresthill Telephone Co., Happy Valley Telephone Company, Hornitos  
27 Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone  
28 Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone  
Company, and Winterhaven Telephone Company (collectively, the "Small LECs") hereby file these  
opening comments in the above-referenced Order Instituting Rulemaking ("OIR") adopted on April  
3, 2003.

The unifying theme permeating these comments is cost. Cost, and the recovery of such cost,  
dictates the deployment of advanced telecommunications technologies. If there are any barriers to  
deployment of advanced telecommunications technologies, especially in rural, high-cost areas, those

1 barriers are cost. Once customer demand exists, rate of return regulated carriers will offer new  
2 services when the cost to provide them, including a reasonable profit, will be recovered. To the  
3 extent the Commission is deemed responsible for ensuring the proliferation of advanced  
4 technologies, the Commission must formulate a plan that provides carriers with cost recovery. Of  
5 course, the price for such deployment may be exorbitant. The Commission must therefore decide  
6 what price society should be willing to pay to eliminate the cost barrier for deployment of advanced  
7 communications technologies.

8           It is important for the Commission to realize that the Small LECs are already playing their  
9 part to ensure that rural customers have access to advanced communications technologies. Where  
10 economically appropriate, many of the Small LECs have upgraded their networks to provide  
11 customers access to digital subscriber line ("DSL") services. Accordingly, the Small LECs are  
12 working to bridge any perceived "digital divide" that exists for their rural customers.

13           With these factors in mind, the Small LECs respond to the issues identified for comment in  
14 the Order Instituting Rulemaking ("OIR").

15  
16 Issue No. 1:

17           Existing barriers to the ubiquitous availability and use of advanced telecommunications  
18 technology.

19 Response:

20           Without identifying particular advanced telecommunications technologies, it is difficult to  
21 respond to this issue at anything other than the most general of levels. The primary barrier to  
22 deployment of any new technology in rural areas arises from the very nature of rural areas: there is  
23 insufficient population to create the demand necessary to support the expensive investment  
24 frequently required to deploy advanced technology. Another barrier to the continued investment in  
25 broadband-related services from the Small LEC perspective is the lack of a fully explicit  
26 Commission policy stating that Small LECs will be appropriately compensated for their investments  
27 that bring advanced telecommunications technology to their subscribers. In contrast, federal  
28 regulators have made it more explicit what interstate services will be subject to cost recovery,

1 allowing companies to make informed investment decisions and thereby increasing the likelihood  
2 that companies will invest in plant necessary to provide interstate services. In the absence of  
3 guidance from regulators, the investment decision with respect to speculative, advanced technology  
4 is most likely to be to forego such investment; the extreme uncertainty whether investment will  
5 otherwise be recouped dictates against the investment. Accordingly, the Commission could remove  
6 this barrier by making it clear that the Small LECs will be compensated for their prudent  
7 investments in advanced telecommunications technology by recognizing that this type of investment  
8 will be subject to recovery through rate cases filed by the Small LECs. As discussed in more detail  
9 below, the Commission guidance should not take the form of a mandate, but merely that cost  
10 recovery will be permitted to the extent a Small LEC (and the Commission) deem the investment  
11 prudent.

12  
13 Issue No. 2:

14 Whether new telecommunications technologies or the cost of existing technologies have  
15 changed in ways that would make them more economical to deploy statewide.

16 Response:

17 The experience of the Small LECs suggests that the cost of new technology declines as that  
18 technology ages. For example, each of the Small LECs has now deployed digital switches in its  
19 service area. However, digital switching technology was not deployed immediately in Small LEC  
20 service areas upon its introduction in part because its cost when originally introduced was  
21 prohibitive for rural carriers serving small numbers of customers. It follows, therefore, that it will  
22 be more economical to deploy advanced broadband technology after it has had an opportunity to  
23 age.

24 However, while the cost of a particular technology may decrease over time, technology also  
25 changes rapidly. The rapid change in technology makes it difficult to delay deploying a technology  
26 in the hopes that it will be cheaper. Personal computers provide an apt example. The cost of a  
27 personal computer with a 486 microprocessor substantially decreased within years after the 486  
28 microprocessor was introduced. However, it did not take long for the next generation of

1 microprocessor to be introduced. Within years, the 486 was cheap and obsolete, making it  
2 questionable to "deploy" such computers when faster, more efficient computers were available.  
3 Telecommunications technology evolves in a similar manner, making it a difficult proposition to  
4 delay deploying a technology with the expectation it will be cheaper to do so later.

5 In such an analysis, a company making deployment decisions cannot ignore customer  
6 demand. If customer demand does not exist, then it makes little sense to deploy a particular  
7 technology. DSL is a prime example. DSL-type technology existed for a period of time prior to its  
8 widespread deployment. It was not until the Internet enjoyed widespread use that sufficient demand  
9 for existed for broadband services. Once the demand existed, it made sense to deploy services such  
10 as DSL. Accordingly, the timing of deployment of new technology is not based simply on the  
11 existence and cost of such technology, but is also driven in large measure by the customer demand  
12 for services that rely on the new technology.

13  
14 Issue No. 3:

15 Whether and how telecommunications technologies and their cost are expected to change in  
16 the future in ways that would make them more economical to deploy statewide.

17 Response:

18 See response to Issue No. 2.

19  
20 Issue No. 4:

21 Whether the Commission can or should direct changes in technologies, their deployment or  
22 related infrastructure in ways that would promote more ubiquitous availability.

23 Response:

24 The Small LECs do not believe the Commission should mandate that any particular  
25 technology should be deployed in carriers' networks. The decision to deploy a particular technology  
26 is based on a number of factors, including cost recovery and customer demand for services  
27 depending on such technology. Such decisions are fundamental business issues that should be left  
28 to the managers of the companies who possess the expertise to assess options. The nature of

1 Commission processes does not lend itself to timely decision-making on such an important issue as  
2 technology deployment. To comply with principles of administrative law, the Commission would  
3 have to circulate for comment any proposed technology decision, leading to the result that  
4 competitors not subject to Commission jurisdiction might have an influence in the technology  
5 deployment mandated as a result of such an undertaking. It is not difficult to imagine cable modem  
6 providers advocating in favor of a technology deployment that advantages their broadband service  
7 offerings to the detriment of carriers who would be subject to a Commission mandated technology  
8 deployment. These possible scenarios are just some of the potential problems that would arise if the  
9 Commission expanded its regulatory function to include technology deployment mandates.

10 While mandating technology would be inappropriate, the Commission should explicitly  
11 endorse carriers' deployment of advanced technology. By doing this, carrier managers would retain  
12 the flexibility to determine where and when to deploy new technology, decisions the Commission  
13 should properly defer to carriers, with the assurance that, if deemed prudent, the investment in such  
14 new technology will be recovered.

15  
16 Issue No. 5:

17 Whether and how existing programs promote the availability and use of advanced  
18 telecommunications technology for inner-city, low-income, and disabled Californians.

19 Response:

20 The California Teleconnect Fund ("CTF") has the potential to promote the availability of  
21 broadband-type services to inner-city, low-income, and disabled Californians. To the extent that  
22 members of such groups cannot directly purchase advanced services, the availability of such  
23 services through schools, libraries and community based organizations at least provides access to  
24 advanced services.

25 Another possibility that would require further Commission scrutiny would be to permit a  
26 Universal Lifeline Telephone Service ("ULTS") discount on broadband services. To be clear, the  
27 Small LECs do not favor adding broadband access to the definition of basic service. As the  
28 Commission found in its decision in the SB 1712 proceeding, it would be too costly to mandate the

1 provision of broadband services. However, the Commission could potentially increase the  
2 availability and use of broadband services by allowing carriers to provide a discount on such  
3 services to low-income individuals to the extent such services are available in a particular service  
4 area.

5  
6 Issue No. 6:

7 Whether and how open and competitive markets for advanced communications technologies  
8 can encourage greater efficiency, low prices and more consumer choice.

9 Response:

10 In rural, high-cost areas, the Small LECs do not believe that competition will be much of a  
11 factor for increasing the deployment of advanced services. As discussed previously, cost recovery  
12 will be the primary driver in determining whether a carrier deploys a particular technology. With  
13 the assurances described in response to previous issues, carriers like the Small LECs will be more  
14 likely to undertake the investment necessary to increase availability of advanced  
15 telecommunications technologies.

16  
17 Issue No. 7:

18 Whether and how identified technologies may promote economic growth, job creation and  
19 social benefits.

20 Response:

21 The benefits of access to the Internet, perhaps most important of which is education, are  
22 generally recognized in today's society. To the extent that advanced technologies further access to  
23 the Internet, the associated benefits are likely to accrue. The Small LECs also believe that advanced  
24 telecommunications technologies can make American workers more productive, creating positive  
25 impacts on economic growth.

1 Issue No. 8:

2           The adequacy of current efforts to provide educational institutions, health care institutions,  
3 community-based organizations, and governmental institutions with access to advanced  
4 telecommunications services.

5 Response:

6           While there are problems with how the CTF is administered (e.g., delays in processing  
7 claims, availability of funds in the General Fund to pay the claims), the Small LECs believe that the  
8 Commission's intervention in the market through the CTF is an adequate response to the desire to  
9 expand access to advanced telecommunications technologies. One additional area the Commission  
10 might consider is expanding the ULTS program to provide discounts for broadband services as  
11 discussed generally in response to Issue No. 5. Other than that, the Small LECs do not believe the  
12 Commission should expand its role in the market for advanced telecommunications technologies.

13

14 Issue No. 9:

15           Whether existing law and policy encourage fair treatment of consumers through provision of  
16 sufficient information for making informed choices, establishment of reasonable service quality  
17 standards, and establishment of processes for equitable resolution of billing and service problems.

18 Response:

19           Currently applicable law (e.g., Truth in Billing rules adopted by the FCC, G.O. 133-B,  
20 among others) provide adequate means for the Commission to ensure that consumers receive fair  
21 treatment. Accordingly, no additional regulatory mandates should be considered in this proceeding.

22

23           In summary, cost recovery and customer demand will be the most important factors in a  
24 carrier's decision to deploy advanced telecommunications technology. The Commission could  
25 assist deployment of advanced telecommunications technology in rural areas by explicitly  
26 acknowledging the prudence of such investments, thereby providing adequate assurance that rate of  
27 return regulated carriers will have an opportunity to recover their investments in new technologies.

28 In addition, the Small LECs believe that a properly administered CTF is the best way for the




1 Commission to encourage access to advanced telecommunications technologies, although it might  
2 also consider a modification to the ULTS program to expand access to broadband services. Finally,  
3 the Small LECs oppose any other regulatory mandates impacting the relationship between carriers  
4 and their customers.

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Executed at San Francisco, California this 10th day of June 2003.

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**CERTIFICATE OF SERVICE BY MAIL**

I, Janet K. Doherty, declare:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is COOPER, WHITE & COOPER LLP, 201 California Street, Seventeenth Floor, San Francisco, CA 94111.

On June 10, 2003, I served the foregoing:

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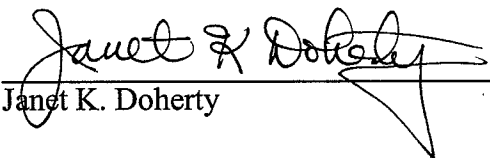
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by electronic mail and/or by placing a true and correct copy thereof with the firm's mailing room personnel for mailing in accordance with the firm's ordinary practices to the parties on the CPUC's service list in this proceeding.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 10, 2003, at San Francisco, California.

  
 Janet K. Doherty

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