

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**Resolution T-17526
August 18, 2016**

RESOLUTION

Resolution T-17526. This Resolution approves Cox California Telcom, LLC's (U-5684-C) advice letter request to opt out of its Carrier of Last Resort (COLR) responsibilities as well as to discontinue receiving California High Cost Fund-B (CHCF-B) support for providing service in high cost service territories in Orange and San Diego Counties.

By Advice Letter 1442 filed on May 16, 2016.

Summary

Cox California Telcom, LLC (Cox) filed a Tier 2 advice letter (AL) 1442 on May 16, 2016 to request Commission authority to opt out of its Carrier of Last Resort (COLR)¹ responsibilities as well as to discontinue receiving California High Cost Fund B (CHCF-B) support for providing service in 18 high cost census block groups (CBGs)² in Orange and San Diego Counties. Cox states that it will continue to provide basic and other services to its existing customers in these 18 CBGs. Cox is not rescinding its Eligible Telecommunication Carrier (ETC) status or discontinuing offering California LifeLine service. Cox serves 3,413 customers in these CBGs and claims approximately \$9,600 per month or approximately \$115,000 per year from the CHCF-B program. Cox's advice letter 1442 was noticed in the Commission's Daily Calendar on May 18, 2016. This Resolution approves Cox's AL 1442.

Background

Cox is a competitive local exchange carrier (CLEC) which provides telephone service, including basic service, in certain portions of AT&T's and Frontier's service areas in

¹ A Carrier of Last Resort is a telecommunications carrier that commits (or is required by law) to provide service to any customer in a service area that requests it, even if serving that customer would not be economically viable at prevailing rates. In accordance with D.12-12-038, "A COLR must offer basic service to all residential customers within its designated service territory, including those areas that are more costly or difficult to serve."

² Decision 96-10-066, Appendix A defines CBG as, "An area defined by the United States Census Bureau (and used) for purposes of the CHCF-B. The CBG serves as the geographic study area." (Clarification added)

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Orange and San Diego counties. Cox received COLR status by an AL filing which became effective on December 8, 1999.

On October 25, 1996, the Commission adopted Decision (D.) 96-10-066 which allowed COLRs to opt out of their COLR obligations by utilizing the AL process, provided it is not the only COLR providing service in a geographic service area (GSA).³

Decision 96-10-066, Appendix B, Part 6, D, 7 states that, “A designated carrier may opt out of its obligations in a GSA by advice letter, unless it is the only carrier remaining in the GSA, in which case it must file an application to withdraw as the COLR and continue to act as the COLR until the application is granted, or a new COLR has been assigned as a result of an auction.”

Cox has drawn from the CHCF-B Fund since receiving COLR status in 1999, and currently averages a draw of approximately \$115,000 per year.

After receiving AL 1442 on May 16, CD staff suspended it on May 24, 2016, for up to 120 days (September 21, 2016). Staff suspended the advice letter to allow for sufficient time to review and correctly process the AL.

Discussion

Decision 96-10-066 allows CLECs to become COLRs by submitting an advice letter, effective 40 days after filing, absent any protests. The decision also allows COLRs to submit an AL to opt out of serving an area as a COLR, provided that there is another COLR designated to serve those areas.

If no other COLR serves the area, then the existing COLR is required to file an application with the Commission to withdraw as the COLR. At that point, the existing COLR continues to serve as the COLR until its application is granted or a new COLR has been assigned as a result of an auction, whereby other telecommunications carriers have the opportunity to bid for the right to replace the existing COLR and serve that area as the new COLR.

³ D.96-10-066, Appendix A defines GSA as, “A Commission designated geographic area that serves as a reference point from which cost data and high cost subsidies can be derived for the designated carrier or carriers of last resort.”

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Decision 12-12-038, Appendix C, 6.c. affirmed D.96-10-066 that a designated COLR may opt out of its COLR obligations in a GSA by advice letter, unless it is the only carrier remaining in the GSA.

Decision 13-05-035 also reiterated that the advice letter process should be used by a COLR to opt out of its COLR obligations in designated high cost areas, if there is another COLR serving those areas.⁴

Commission General Order 96-B, Industry Rule 5.1, addresses the matters for which it is appropriate to use advice letters. Rule 5.1 states, "A utility may also request relief by means of an advice letter where the utility: (1) has been authorized or required, by statute, by this General Order, or by other Commission order, to seek the requested relief by means of an advice letter."

CD staff's subsequent review of G.O. 96-B, Industry Rule 7 (Advice Letter Review and Disposition) addressed the appropriate Tier level under which a carrier should submit an AL to opt out of its COLR obligations, if it is serving an area already served by another existing COLR; i.e. Tier 1, 2 or 3.

CD staff review found that a Tier 2 advice letter should be submitted for matters that require staff approval where Cox is requesting, "a tariff change that is consistent with authority the Commission previously has granted to the Utility submitting the advice letter, such as a rate change within a price floor and ceiling previously approved by the Commission for that Utility". In this case, Cox is amending its A-1 tariff to delete mention of the GSAs that it will no longer serve as a COLR, if its request is granted by the commission.

This AL was properly submitted as a Tier 2 AL.

Cox requests to opt out of its COLR obligations in 18 high cost CBGs located in Orange and San Diego counties. We have confirmed that AT&T currently serves as a COLR in all of the 18 CBGs in which Cox is requesting to opt out of its COLR obligation.

Cox also states that it will continue to provide service, including basic and Lifeline, to its current customers without any additional or other service changes. Therefore, there will be no changes to services currently provided to customers served by Cox in these CBGs. Cox's request to opt out of COLR obligations means that it will no longer be eligible for CHCF-B funding once this Resolution is adopted.

⁴ D.13-05-035, p. 26.

Notices/Protests

In response to notice of the Cox's AL 1442 in the Daily Calendar on May 18, 2016, the Commission received no protests.

Safety

CD staff contacted Cox to verify that Cox's customer service, its 911 emergency service and its current service quality levels will not be negatively affected by Cox no longer receiving CHCF-B Fund subsidy. In response to the question concerning safety and service quality, Cox responded by stating, "Cox does not expect any effect on safety or service quality for its services or operations, due to the minimal funds Cox receives from the program. Cox no longer receiving B-Fund support will not impact the quality of our telephone service or our customers' access to 911. State and federal laws independent of the Commission's CHCF-B program require Cox to provide customers access to emergency services via 911. Cox telephone customers will still be expected to have continued and reliable access to emergency services by dialing 911, 24 hours a day, 7 days a week, 365 days each year. "

CD confirms that D.12-12-038—which updated basic service telephone definitions and which applies to any telephone corporation serving as COLR *or* offering Lifeline service within California—required basic service providers to certify compliance with 911/E911 standards established by state and federal laws and regulations. While Cox is relinquishing COLR status, it confirmed that it will continue to offer and provide Lifeline service. Therefore, as set forth in D.12-12-038, Cox must remain compliant in providing continued and reliable access to emergency 911 services.

By allowing Cox to opt out of its COLR obligations and discontinue its CHCF-B support, we find that Cox's ability to provide reliable and robust 911 services to assist its customers in emergency situations will not negatively be affected.

Comments

Public Utilities Code § 311(g)(1) requires the Commission to serve copies of draft resolutions on all parties, and make the draft resolution available for public review and comment for a period of 30 days or more, prior to a vote by the Commission on the resolution. On July 19, 2016, the Commission served copies of this resolution for comments to all persons on the advice letter's attached service list.

Conclusion

CD staff recommends that Cox's request to opt out of its COLR obligations be approved for the following reasons: (1) AT&T currently serves as a COLR in all 18 of the designated high cost CBGs in which Cox serves as a COLR; and (2) Cox will continue to provide service to its current customers without any additional or other service changes.

Findings and Conclusions

1. Cox California Telcom, LLC (U-5684-C) filed Tier 2 advice letter 1442 on May 16, 2016, notifying the Commission of its request to opt out of its COLR responsibilities in 18 high cost CBGs in Orange and San Diego Counties.
2. In AL 1442, Cox stated that, upon approval of the AL, it would cease submitting monthly claims for CHCF-B support in all 18 high cost CBGs.
3. Cox serves 3,413 customers in these 18 CBGs and claims approximately \$9,600 per month or approximately \$115,000 per year from the CHCF-B program.
4. AT&T currently provides service to all 18 CBGs in which Cox is requesting to opt out of its COLR responsibilities.
5. Cox will continue to provide basic service, Lifeline and other services, to its current customers without any other service changes.
6. Cox is not rescinding its Eligible Telecommunication Carrier (ETC) status or discontinuing offering California LifeLine service.
7. Decisions 96-10-066, 12-12-038 and 13-05-035 allow COLRS to use the advice letter process to opt out of their COLR obligations in designated high cost areas, provided there is another COLR that serves in those same high cost areas.
8. Cox states that it does not expect any effect on safety or service quality for its services or operations, due to no longer receiving funds from the CHCF-B program.
9. Cox states that no longer receiving CHCF-B support will not impact the quality of its telephone service or its customers' access to 911, as state and federal laws independent of the Commission's CHCF-B program require Cox to provide customers access to emergency services via 911.

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10. Additionally, D.12-12-038 establishes that Cox must remain compliant in providing continued and reliable access to emergency 911 services.
11. Cox should file a Tier 1 AL compliance filing to update its A-1 tariff, to be effective 15 days from the adoption date of this resolution.
12. Cox's request to opt out of COLR obligations means that it will no longer be eligible for CHCF-B funding once this Resolution is adopted.
13. Cox should continue to submit claims to the CHCF-B program through the month that this resolution is adopted.
14. The Communications Division recommends that Cox's request to relinquish its COLR status be granted.

THEREFORE, IT IS ORDERED that:

1. Cox California Telcom, LLC's (U-5684-C) advice letter request to opt out of its Carrier of Last Resort (COLR) responsibilities as well as to cease receiving California High Cost Fund B (CHCF-B) support for providing service in 18 high cost service territories in Orange and San Diego Counties of California, is approved.
2. Cox California Telcom, LLC (U-5684-C) shall file a Tier 1 AL compliance filing to update its A-1 tariff, to be effective 15 days from the adoption date of this resolution.
3. Cox shall continue to submit claims to the CHCF-B program through the month that this resolution is adopted.
4. Cox California Telcom, LLC (U-5684-C) shall no longer be eligible for CHCF-B support thereafter.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on August 18, 2016. The following Commissioners adopted it:

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TIMOTHY J. SULLIVAN
Executive Director