

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17600
April 26, 2018**

R E S O L U T I O N

Resolution T-17600. This Resolution Denies Kerman Telephone Company's Advice Letter 409-B Requesting an Increase of \$71,494 in California High Cost Fund-A support for Calendar Year 2017.

Summary

Kerman Telephone Company (Kerman) filed Advice Letter (AL) 409-B on October 9, 2017 requesting an increase of \$71,494¹ in California High Cost Fund-A (CHCF-A) support for Calendar Year (CY) 2017 because of a projected reduction in federal Universal Service Fund High Cost Loop Support (USF-HCLS) when comparing 2017 support to 2016 HCLS support. AL 409-B was filed pursuant to Commission Decision (D.) 17-09-016, Order Granting Limited Rehearing and Modifying Resolution T-17559, and Denying Rehearing as modified.

This Resolution denies Kerman's requested increase of \$71,494 in CHCF-A support because its projected reduction in federal USF-HCLS from 2016 to 2017 did not take place. Instead, Kerman received an additional \$100,472 in federal USF-HCLS funding for 2017 over the 2016 amount of \$2,032,176. As such, no increase in CHCF-A funding is necessary for Kerman to achieve its authorized rate of return for 2017. Kerman's request for additional \$71,494, if granted, would cause the company to exceed its authorized rate of return in contravention of the Commission's CHCF-A program rules. Therefore, the requested increase of \$71,494 is denied.

Background

The California High Cost Fund (HCF) was implemented by D.88-07-022, as modified by D.91-05-016 and D.91-09-042, to provide a source of supplemental revenues to three mid-

¹ Kerman revised its requested amount to \$71,494 from the original \$71,494.80 amount.
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size carriers and 17 Small Incumbent Local Exchange Carriers (Small ILECs)² whose basic exchange access line service rates would otherwise be increased to levels that would threaten universal service. These decisions provide program guidelines, referred to as Implementation Rules, and require the carriers to file an annual advice letter to make straightforward and non-controversial program adjustments, and to determine the amount of support for eligible Small ILECs that draw from the fund. In D.96-10-066, the Commission renamed the HCF to CHCF-A, to provide support specifically to the Small ILECs.

Public Utilities (P.U.) Code § 275.6 requires the Commission to implement the CHCF-A program to reduce any rate disparity between rural and urban areas charged by small telephone corporations that are subject to rate-of-return regulation. Rate-of-return regulation provides the Small ILECs with an opportunity to earn up to a specific rate-of-return. To facilitate that opportunity, the CHCF-A program funding bridges the revenue differential between the basic service rate revenue paid by the Small ILECs' customers and the revenue requirement needed by a Small ILEC to achieve its authorized rate-of-return.

However, Commission program rules provide that CHCF-A annual adjustments must not enable a Small ILEC to exceed its Commission-authorized rate of return. D.91-09-042, Appendix, page 2, states: "Utilities shall be eligible for support from the fund limited to the amount which are forecasted to result in earnings not to exceed authorized intrastate rates of return or to the current funding level amount for the year for which HCF is being requested, whichever amount is lower."

On May 11, 2017, the Commission adopted Resolution T-17559 approving CHCF-A support for certain Small ILECs including Kerman. The resolution approved \$3,888,605 in CHCF-A support for Kerman for Calendar Year 2017. The same resolution also denied adjustments sought by Kerman in the annual CHCF-A support advice (AL) letter process, because under existing program rules, the Commission does not allow a "means test" adjustment to be applied in this AL process for the year (referred to as the test year) after a Small ILEC's GRC (which determines the Small ILEC's CHCF-A support for the test year) to determine whether an increase would cause Kerman to exceed its authorized rate of return for 2017.

On June 14, 2017, Kerman, along with the other Small ILECs addressed by Resolution T-17559, filed an application (A.17-06-017) for rehearing of Resolution T-17559. On

² Since then, the number of Small ILECs eligible for CHCF-A support has reduced to 13 through company consolidations.

September 14, 2017, the Commission issued D. 17-09-016, granting limited rehearing of Resolution T-17559—for Kerman only—to reconsider the \$71,494.80 in Calendar Year 2017 CHCF-A adjustments sought by Kerman.³ In the rehearing decision, the Commission determined that Kerman should be allowed to provide supplemental information to determine whether Kerman’s requested adjustments of \$71,494.80 would result in Kerman exceeding its authorized 2017 rate of return.

Per this authorization by the Commission, on October 9, 2017, Kerman filed AL 409-B requesting an increase of \$71,494 in CHCF-A support for 2017 as compensation for its estimated reduction in federal USF-HCLS for 2017.

Discussion

In September 2016, Kerman filed AL 409-A requesting an increase of \$71,494 in CHCF-A support for CY 2017. This amount was based on Kerman’s estimated/projected reduction in Federal USF-HCLS funding for CY 2017, resulting from the difference between its forecasted CY2017 funding (\$1,960,682) and its CY 2016 funding (\$2,032,176).

In October 2016, subsequent to Kerman’s filing of Advice Letter 409-A, NECA provided an updated Federal USF-HCLS support amount of \$2,132,648 for CY 2017 to Kerman. That updated amount of support reflected an additional increase of \$100,472 (\$2,132,648 for 2017 compared to \$2,032,176 for 2016), rather than a reduction of \$71,494, in Federal USF-HCLS funding in 2017 over 2016. The updated increase of \$100,472 is the net of an increase of \$109,453 in Federal USF-HCLS funding less a reduction of \$8,981 in federal carrier compensation funding for 2017.

Kerman filed supplemental AL 409-B pursuant to Commission D.17-09-016 on October 9, 2017, requesting an increase of \$71,494 in CHCF-A support for 2017. Communications Division staff (Staff) reviewed the advice letter along with information submitted previously with AL 409-A, requesting the same increase (\$71,494) in CHCF-A support.

In accordance with Commission D.17-09-016, the Staff has reviewed Kerman’s AL 409-B along with the information submitted with the AL and the updated federal universal service support information provided by National Exchange Carrier

³ Resolution T-17559, Table 2, page 6, addressing Kerman’s AL 409A (later supplemented by AL 409B) for calendar year 2017 as part of the annual CHCF-A AL Process, filed in September 2016.

Association (NECA) regarding the level of Federal USF-HCLS funding for Kerman in 2017.

Both ALs (409-A and 409-B), which seek the same increase of \$71,494 in 2017 CHCF-A support, were based on Kerman's previously projected reduction in federal USF-HCLS funding estimated at \$1,960,682 for 2017. That projection failed to consider the subsequent October 2016 NECA update which actually increased its funding level by \$100,472 to \$2,132,648, from the authorized 2016 amount of \$2,032,176. Since Kerman's adopted CHCF-A draw of \$3,888,605 for 2017 already includes \$100,472 more than what it should be (considering the October 2016 NECA update for 2017 that Kerman did not report), granting an additional increase of \$71,494 as Kerman requests would result in earnings that exceed Kerman's authorized rate of return. Accordingly, this request should be denied.

Based on Staff's calculations, which are reflected in the last two columns of Appendix A attached to this Resolution, Kerman's ROR would result in 8.83% with the October 2016 NECA USF-HCLS amount and the company's ROR would result in 9.16% with the \$71,494 adjustment. Both of these RORs would exceed Kerman's authorized ROR for 2017, which is 8.66%.

As the subsequent October 2016 NECA funding level increase of \$100,472 exceeds the requested CHCF-A increase of \$71,494 by \$28,978, a question remains whether the Commission should take action to recover this difference in CHCF-A funding. After reviewing this amount, the Staff has determined that this is a de minimis amount in excess of rate of return.⁴ Therefore, the Staff does not recommend issuing any further order to recover this revenue increment.

Comments

In compliance with P.U. Code § 311(g), the Commission emailed a notice letter on February 20, 2018, informing Kerman of the availability of this Resolution for public comments at the Commission's website www.cpuc.ca.gov. The notice letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at the same website.

On March 12, 2018, Kerman submitted its comments on the Draft Resolution. The Staff has reviewed the comments and addresses them as follows:

⁴ A minor amount, well below 1% in excess of the authorized rate of return.

1. Kerman asserts that Resolution T-17559 did not follow the CHCF-A rules in D.91-09-042 and that the original request of \$71,494 was the correct amount to include in its advice letter at the time it was filed. We disagree and do not find that Resolution T-17559 erred. The resolution adhered to the rules and the directions in D.91-09-042. The rules required that Kerman's original request be denied because no means test adjustment was allowed for the year that Kerman sought an increase in CHCF-A funding.
2. Kerman asserts that none of its calculations for the CHCF-A funding adjustment shows an "overearning". It also asserts that no other calculation shows that Kerman has exceeded its rate of return for 2016 or 2017. Kerman is incorrect. The Staff's calculations using (1) October 2016 updated NECA USF_HCLS amount for Kerman and (2) the additional CHCF-A amount of \$71,494 requested by Kerman show that Kerman's earnings would exceed its authorized rate of return of 8.66% for Calendar Year 2017 in both the cases. In case 1, the calculated rate of return for Kerman would be 8.83% and in case 2, the rate of return would be 9.16%. These calculations are shown in Appendix A (last two columns) of this resolution.
3. Kerman states that the Draft Resolution contains incorrect figures by reporting that Kerman received an additional \$100,472 in USF-HCLS funding for 2017 than the 2016 amount of \$2,032,176. Kerman states that it received only \$1,967,437 in USF-HCLS in 2017. The Draft Resolution did not contain incorrect figures. The Draft Resolution figures are based on the updated USF HCLS amount that NECA provided in October 2016, which the Commission properly relied on to determine the CHCF-A funding amount for Kerman for 2107. Furthermore, this Commission sets rates and authorizes CHCF-A support on a prospective basis based on the information available at the time. Accordingly, the Draft Resolution's use of updated NECA amount is appropriate.

Based on the above, the Staff does not see any merit in Kerman's comments. We concur with the Staff.

Findings and Conclusions

1. Kerman filed AL 409-B (AL 409-A, Supplement B) requesting an increase of \$71,494 in CHCF-A for CY 2017, based on an earlier-projected reduction in federal USF-HCLS fund in 2017 from the 2016 amount.
2. Kerman AL 409A filed in September 2016 stating that it was forecasted to receive \$71,494 less in federal USF-HCLS in 2017 (\$1,960,682) compared to 2016 (\$2,032,176).

3. NECA's October 2016 updated information on federal USF-HCLS shows that Kerman's net federal USF-HCLS amount for 2017 is \$2,132,648 – an increase of \$100,472 in 2017 from 2016.
4. D.91-09-042 states that utilities shall be eligible for CHCF-A support limited to the amount, which are forecasted to result in earnings not to exceed authorized intrastate rates of return or to the current funding level amount for the year for which HCF is being requested, whichever amount is lower.
5. In Resolution T-17559, the Commission adopted \$3,888,605 in CHCF-A support for Kerman for CY 2017.
6. Kerman's actual federal USF-HCLS funding amount was not reduced in 2017 from the 2016 amount.
7. Kerman's federal USF-HCLS amount in fact increased by \$100,472 in 2017 from 2016 amount.
8. The increase in Kerman's federal USF-HCLS amount in 2017 over the 2016 amount eliminated the need for an increase in adjustment to the Commission adopted CHCF-A support amount for Kerman for 2017.
9. No adjustment to the 2017 CHCF-A funding amount is warranted due to the federal USF-HCLS increased support update provided by the National Exchange Carriers Association, which shows that no adjustment is needed for Kerman to achieve its authorized rate of return for 2017.
10. Kerman's authorized ROR for 2017 is 8.66%.
11. Based on Staff's calculations, Kerman's ROR would result in 8.83% with the October 2016 NECA USF-HCLS amount, which would exceed its authorized ROR for 2017.
12. Based on Staff's calculations, Kerman's ROR would result in 9.16% with the \$71,494 adjustment, which would exceed its authorized ROR for 2017.
13. Kerman's requested increase of \$71,494 in CHCF-A support which was based on its forecasted reduction in federal USF-HCLS did not occur and therefore, its request should be denied.
14. It is unreasonable and unjust to permit Kerman to exceed its authorized rate of return for 2017.

15. Kerman's request for additional \$71,494 would cause the company to exceed its authorized rate of return in contravention of the Commission's CHCF-A program rules.

THEREFORE, IT IS ORDERED that:

1. Kerman Telephone Company's Advice Letter No. 409-B requesting an increase of \$71,494 in CHCF-A support for Calendar Year 2017 is denied.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on April 26, 2018, the following Commissioners voting favorable thereon:

ALICE STEBBINS
Executive Director

APPENDIX

