PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division **RESOLUTION T-17691**
Carrier Oversight and Programs Branch **April 16, 2020**

R E S O L U T I O N

Resolution T-17691, Siskiyou Telephone Company and Volcano Telephone Company. This Resolution adopts $197,976 for Siskiyou Telephone Company and $55,495 for Volcano Telephone Company in California High Cost Fund-A support for Calendar Year 2017 to compensate for Federal Communications Commission funding reductions in 2016.

SUMMARY

By Advice Letter 405 filed September 15, 2016, Siskiyou Telephone Company (Siskiyou) requests recovery of $197,976 in California High Cost Fund (CHCF)-A support for 2017 due to a reduction in the Federal Communications Commission's (FCC) non-recurring funding level in 2016. By Advice Letter 309, filed September 15, 2016, Volcano Telephone Company (Volcano) also requests recovery of $55,495 in CHCF-A support for 2017 due to a reduction in the FCC non-recurring funding level for 2016.

Both Siskiyou and Volcano filed their respective advice letters as part of their annual filing, pursuant to D. 91-09-042.

This Resolution adopts rate recovery of $197,976 for Siskiyou and $55,495 for Volcano in CHCF-A fund for Calendar Year 2017 as requested.

BACKGROUND

The CHCF-A was implemented in accordance with Public Utilities (P.U.) Code § 275.6 to provide universal service rate support to small independent telephone corporations (also known as Small Incumbent Local Exchange Carriers, or Small ILECs) in amounts sufficient to meet the revenue requirements established by the Commission through rate-of-return regulation in furtherance of the state's universal service commitment to the continued affordability and widespread availability of safe, reliable, high quality communications services in rural areas of the state.[1]

CHCF-A promotes customer access to advanced services and deployment of broadband-capable facilities in rural areas that is reasonably comparable to that in urban areas, consistent with national communications policy. The program is funded by an all-end user surcharge collected by telecommunications carriers. Procedures for the administration of CHCF-A are outlined in Commission Decision (D.)91-09-042.

On September 15, 2016, Siskiyou Telephone Company and Volcano Telephone Company filed, respectively, Advice Letters (AL) 405 and 309 as part of their annual filing seeking upward adjustments for 2017 of $197,976 and $55,495 in CHCF-A funding

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[1] P.U. Code § 275.6(c)(4) Provides universal service rate support from the CHCF-Administrative Committee Fund to small independent telephone corporations in an amount sufficient to supply the portion of the revenue requirement that cannot reasonably be provided by the customer of each small independent telephone corporation after receipt of federal universal service rate support.

to recoup reductions in the FCC non-recurring High Cost Loop Support (HCLS) funding for 2016.[2]

HCLS provides funding for the last mile of connection for rural companies in service areas where the cost to provide service exceeds 115 percent of the national average cost per line. This support is available to rural price-cap and rural rate of return incumbent carriers, which must be designated as eligible telecommunications carriers (ETCs) by their state commissions or the FCC.

By Resolution T-17559 dated May 11, 2017, the Commission disallowed Siskiyou and Volcano's requested adjustments of $197,976 and $55,495, reasoning that these adjustments should have been requested in each company's respective General Rate Case (GRC) applications (A.15-12-001 and A.15-12-002) filed on December 1, 2015 for Test Year (TY) 2017. At the time the Commission issued Resolution T-17559, the GRC proceedings for those GRCs had concluded.

On June 14, 2017, Siskiyou and Volcano filed an application for rehearing of Resolution T-17559 (A.) 17-06-017[3] challenging the denial of the requested adjustments. By D.17-09-016 on September 14, 2017, Order Granting Limited Rehearing and Modifying Resolution T-17559, and Denying Rehearing as Modified, the Commission upheld the denial of the adjustments for the 2016 federal reductions in HCLS. D.17-09-016 stated that the basis for denial was that the adjustments should have been requested in the carriers' respective TY 2017 GRCs,[4] further stating that Resolution T-17559 explained that a denial was warranted because the requested adjustments were tied to 2016 changes.

On October 17, 2017, Siskiyou, Volcano, Calaveras, et al., filed a petition for writ of review of T-17559 and D.17-09-016 in the Third Appellate District, Court of Appeals of the State of California (Court), Case No. C085725. On August 20, 2019, the Court annulled the portions of Resolution T-17559 and D.17-09-016 that denied Siskiyou and

[2] For both Siskiyou and Volcano, The FCC HCLS reductions included 1) a pro rata adjustment that decreased HCLS in order to maintain the budget under the frozen National Average Cost Per Loop as identified in FCC Order 14-190, Section VI.A; and 2) Rate of Return Represcription that reduced the authorized rate of return from 11.25% to 11.00% beginning July 2016 and Budget Control Mechanism that resulted in reduced HCLS beginning September 2016, identified in FCC Order 16-33, Sections II.B.6 and III.B.6.

[3] Additional joint petitioners were Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, and Sierra Telephone Company.

[4] Resolution T-17559, at p. 7.

Volcano's requests for adjustments in their CHCF-A payments for 2016 revenue impacts attributable to FCC Order 16-33 and 14-190.

In the remand, the Court rejected Siskiyou and Volcano's assertion that the adjustments were mandatory, but agreed that the Commission's resolution and decision did not conform to applicable rules, therefore annulling the portions of the resolution and decision, and denying the adjustment requests for 2016 non-recurring revenue impacts.[5] The Court remanded the matter to the Commission to reconsider Siskiyou and Volcano's adjustment requests.

DISCUSSION

All Small ILECs are required to file annual ALs to receive CHCF-A support pursuant to D.91-09-042.[6] Siskiyou and Volcano filed, respectively, ALs 405 and 390 on September 15, 2016. Siskiyou and Volcano requested upward adjustments of, respectively, $197,976 and $55,495 from the CHCF-A fund to recover reductions in non-recurring Federal funding levels in HCLS for 2016. Siskiyou and Volcano requested that the adjustments be made effective for CHCF-A program support in 2017. Commission Resolution T-17559 and D.17-09-016 denied Siskiyou's and Volcano's recovery of the reduced federal funding through increased CHCF-A funding for the reason that Siskiyou and Volcano should have sought the recovery in their respective Test Year 2017 GRC applications.

However, upon reconsideration of the Siskiyou and Volcano ALs pursuant to the Appellate Court's remand in Case No. C085725, the Communications Division staff (Staff) determines that Siskiyou and Volcano's requested adjustments are for FCC funding reductions for 2016, and were requested for recovery during 2017; they conform with D.91-09-042. Staff therefore recommends that the Commission approve

[5] The ruling stated "But the issue presented is not whether 2016 revenues affected the revenue requirement or rate design for test year 2017; rather, the issue is whether a loss of revenue in 2016 affected the rate design the company and the Commission had projected for 2016 and whether Siskiyou and Volcano should be granted adjustments based on those effects. Using 2016 revenue data to forecast the revenue requirement is not the same as providing additional subsidies for 2016 lost revenue"

[6] This annual filing is required of all Small ILECs, whether or not a Small ILEC draws from the CHCF-A fund.

the adjustments of $197,976 and $55,495 requested respectively by Siskiyou and Volcano.

COMMENTS

In compliance with P.U. Code § 311(g), the Commission emailed a notice letter on March 13, 2020, informing Siskiyou, Volcano, and all parties of record in Application 17-06-017 service list of the availability of this Resolution for public comments at the Commission's website www.cpuc.ca.gov. Comments are due within twenty (20) days of Daily Calendar notification. The notice letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at the same website.

FINDINGS OF FACT/CONCLUSIONS OF LAW

1. The Federal Communications Commission maintains a High Cost Loop Support program that provides funding for the last mile of connection for rural companies in service areas where the cost to provide service exceeds 115 percent of the national average cost per line.
2. For 2016, the FCC implemented HCLS reductions which included 1) a pro rata HCLS decrease adjustment to maintain the budget under the frozen National Average Cost Per Loop, a Rate of Return Represcription beginning July 2016 and a Budget Control Mechanism adjustment that resulted in reduced HCLS beginning September 2016.
3. Siskiyou Telephone Company filed Advice Letter 405 on September 15, 2016 as part of its annual California High Cost-A filing, requesting recovery of a 2016 reduction in non-recurring Federal Communications Commission funding through the CHCF-A during 2017.
4. Volcano Telephone Company filed AL 390 on September 15, 2016 as part of its annual CHCF-A filing, requesting recovery of a 2016 reduction in non-recurring FCC funding through the CHCF-A during 2017.
5. The Commission, by Resolution T-17559, denied Siskiyou's and Volcano's recovery of the 2016 reduction in federal funding requests through the CHCF-A.
6. On June 14, 2017, Siskiyou and Volcano along with eight other Small Incumbent Local Exchange carriers, filed an application for rehearing of Resolution T-17559.

7. On September 14, 2017, by D.17-09-016, Order Granting Limited Rehearing and Modifying Resolution T-17559, and Denying Rehearing as Modified, the Commission upheld the denial of the requested CHCF-A adjustments tied to the 2016 federal funding reductions.
8. On October 17, 2017, Siskiyou and Volcano, along with eight other Small Incumbent Local Exchange Carriers filed a petition for writ of review of T-17559 and D.17-09-016 in the Third Appellate District Court, Court of appeals of the State of California (Court), Case No. C085725.
9. On August 20, 2019, the Court annulled the portions of Resolution T-17559 and D.17-09-016 that denied Siskiyou and Volcano's requests for adjustments in their CHCF-A payments for 2016 revenue impacts attributable to FCC Order 16-33 and 14-190. The Court remanded the matter to the Commission to reconsider Siskiyou and Volcano's adjustment requests.
10. The upward adjustments in CHCF-A support sought by Siskiyou and Volcano conform with D.91-09-042.
11. Siskiyou's requested upward adjustment of $197,976 in CHCF-A support for 2017 is reasonable and should be adopted.
12. Volcano's requested upward adjustment of $55,495 in CHCF-A support for 2017 is reasonable and should be adopted.

THERFORE, IT IS ORDERED that:

1. In compliance with Decision 91-09-042 and the Court of the Appeal’s Remand in Case No. C085725, Siskiyou Telephone Company shall receive a one-time lump sum payment from the California High Cost Fund-A of $197,976 within 45 days from the effective date of this Resolution.
2. In compliance with Decision 91-09-042 and the Court of the Appeal’s Remand in Case No. C085725, Volcano Telephone Company shall receive a one-time lump sum payment from the California High Cost Fund-A of $55,495 within 45 days from the effective date of this Resolution.

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 -
____________________, the following Commissioners voting favorable thereon:

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Alice Stebbins
Executive Director