

Date of Issuance: February 25, 2011

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Policy & Decision Analysis Branch**

**RESOLUTION T-17305  
February 24, 2011**

**R E S O L U T I O N**

Resolution T-17305. ADOPTING ANNUAL FEE TO IMPLEMENT  
DIVCA FOR FISCAL YEAR 2010-11.

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**Summary**

This Resolution sets the annual fee for the fiscal year 2010-2011 to be paid by each video franchise holder at \$0.0417 (4.17 cents) per household in its video franchise territory. This is a 3.9% decrease from 4.34 cents per household last year. This fee will generate revenue equal to the Commission's authorized budget for implementation of AB 2987, the Digital Infrastructure and Video Competition Act.

**Background**

The Digital Infrastructure and Video Competition Act of 2006 (DIVCA) was signed into law on September 29, 2006, creating for the first time a process for the issuance of state video franchises in California.<sup>1</sup> On March 1, 2007, the Commission issued D. 07-03-014 (DIVCA Decision)<sup>2</sup>, implementing DIVCA, and

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<sup>1</sup> AB 2987, 2005-2006 Session (Ca. 2006); Cal. Pub. Util. Code, Division 2.5, The Digital Infrastructure and Video Competition Act of 2006 (DIVCA).

<sup>2</sup> *Decision Adopting a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006*, Decision 07-03-014, *Rulemaking for Adoption of a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006* (Cal. P.U.C. March 3, 2007) (D. 07-03-014).

began accepting video franchising applications immediately thereafter. To date, the Commission has issued eighty-six video franchises, including amendments.

DIVCA requires the Commission to collect annual fees from all state-issued video franchise holders.<sup>3</sup> The total amount of fees collected is to equal the amount authorized in the Commission budget for DIVCA implementation. For the 2010-2011 fiscal year, the Commission authorized \$950,000 to implement the state video franchise program.<sup>4</sup> The DIVCA Decision provided that the annual fee for each video franchisee, after the initial year, was to be calculated based on the percentage of all state video franchise holders' gross state video franchise revenues that is attributable to an individual state video franchise holder.<sup>5</sup> The fee was to be calculated based on the revenue reported for the prior calendar year.

It became apparent that allocating the annual fee based on holders' revenues was not an equitable approach, given the allocation of revenues among holders during the early phases of DIVCA implementation. Accordingly, the CPUC adopted D. 09-04-011, modifying D. 07-03-014, to provide for setting the annual fee based on a prorated allocation of households in holders' video service territories, rather than according to revenues, through the 2012 -2013 fiscal year.<sup>6</sup>

## Discussion

This Resolution sets the annual fee due per household in a video franchise holder's service area for FY 2010-2011 consistent with the D. 09-04-011.

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<sup>3</sup> Cal. Pub. Util. Code § 441, as added by AB 2987, reads, in part, as follows:

441. The commission shall annually determine a fee to be paid by an applicant or holder of a state franchise pursuant to Division 2.5 (commencing with Section 5800). The annual fee shall be established to produce a total amount equal to that amount established in the authorized commission budget for the same year to carry out the provisions of Division 2.5 (commencing with Section 5800)....

<sup>4</sup> Decision 07-03-014, p. 115.

<sup>5</sup> Decision 07-03-014, pp. 122-123

<sup>6</sup> *Order Instituting Rulemaking to Consider the Adoption of a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006*, Decision 09-04-011, *Decision Modifying Decision 07-03-014* (Cal. P.U.C. April 16, 2009), Ordering Paragraph 1, pp. 7. ("1. Decision 07-03-014 and General Order 169 are modified to adopt a user fee process for Fiscal Year 2008-2009 to Fiscal Year 2012-2013 to allocate the Digital Infrastructure and Video Competition Act of 2006 implementation costs based on a pro-rata share of the number of households in each state franchise holder's video service territory.")

The Commission will send all video franchise holders fee statements after adoption of this Resolution. Video franchise holders with franchises issued any time on or prior to June 30, 2011 are required to pay the annual fee for the full Fiscal Year 2010-11. Video franchise holders with franchises issued on or before the date of this Resolution must pay their annual fees for Fiscal Year 2010-11 before April 30, 2011. Holders of franchises granted after the date of the Resolution shall pay the fee amount to the Commission within 60 days after the issuance of their franchise or by June 30, 2011, whichever is earlier.

The total number of households that exist in the franchise territories of all franchise holders as of December 31, 2010 is 22,773,745. In order to generate the \$950,000 authorized for the Commission's Fiscal Year 2010-2011 DIVCA-related budget, the amount due per household is \$0.0417.<sup>7</sup> This is a 3.9% decrease from \$0.0434 per household last year.

Appendix A lists each of the franchise holders as of December 31, 2010, the number of households in their service area, and their total annual fee for the 2010-2011 fiscal year.

### **Notice**

In compliance with PU Code Section 311(g), a copy of this proposed Resolution was either mailed or e-mailed to all parties of record in R. 06-10-005 on January 25, 2011.

### **Findings:**

1. AB 2987, the Digital Infrastructure and Video Competition Act requires the Commission to calculate, and holders of state-issued video franchises to pay, an annual fee.
2. The annual fee for fiscal year 2010-2011 is to be calculated based on each holder's pro-rata share of households in franchised video territories, in accordance with D. 09-04-011.

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<sup>7</sup> The per-household fee for FY 2008-09 was 0.0448.

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3. Fees in the aggregate are to equal the Commission's authorized budget for implementation of DIVCA requirements.
4. The total number of households in video franchise territories as of December 31, 2010 is 22,773,745. This is a 4.2% (924,085) increase from 21,849,660 households last year.
5. The Commission's authorized DIVCA-related budget for the fiscal year 2009-2010 is \$950,000.
6. A fee of .0417 per household is reasonably calculated to collect an amount equal to its DIVCA-related budget for the 2010-2011 fiscal year.
7. A schedule of fees based on franchises issued by December 31, 2010 is attached as Appendix A.
8. The Commission will send fee statements to existing holders of state video franchisees upon approval of this Resolution.
9. Parties of Record in R. 06-10-005 were provided with notice of this Resolution in accordance with PU Code Section 311(g).
10. The Communications Division did not receive comments from parties of record in R06-10-005.

**THEREFORE, IT IS ORDERED that:**

1. Holders of state video franchises granted on or before the date of this Resolution shall remit to the Commission the amount indicated in their fee statements by April 30, 2011.

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2. Holders of state video franchises granted after the date of this Resolution shall remit their fee payment to the Commission within 60 days after the issuance of their franchise, or June 30, 2011, whichever is earlier.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on February 24, 2011. The following Commissioners approved it:

/s/ Paul Clanon

PAUL CLANON

Executive Director

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

Commissioners

Commissioner Catherine J.K. Sandoval,  
being necessarily absent, did not participate.

## Appendix A

**Fiscal Year 2009-2010 User Fee Assessment Based  
on the Number of Households in Video Franchise Area**

Video Franchise Holders with Franchises Issued as of November 30, 2009	Franchise ID	Franchise Issue Date	Total Number of Households in Video Service Area	User Fee Assessment
<b>Verizon California Subtotal</b>			<b>1,992,151</b>	<b>\$83,102.0</b>
Verizon California	0001	March 8, 2007		
Verizon California 1st Amended	0001	December 19, 2007		
Verizon California 2nd Amended	0001	April 1, 2009		
<b>AT&amp;T California Subtotal</b>			<b>9,632,375</b>	<b>\$401,811.7</b>
AT&T California	0002	March 30, 2007		
AT&T California 1st Amended	0002	July 29, 2009		
AT&T California 2nd Amended	0002	September 21, 2009		
AT&T California 3rd Amended	0002	August 26, 2010		
<b>Cox Communications Subtotal</b>			<b>730,851</b>	<b>\$30,487.2</b>
Cox Communications	0003	April 27, 2007		
Cox Communications 1st Amended	0003	January 2, 2008		
Cox Communications 2nd Amended	0003	May 2, 2008		
Cox Communications 3rd Amended	0003	May 29, 2009		
Cox Communications 4th Amended	0003	June 23, 2009		
Cox Communications 5th Amended	0003	January 7, 2010		
Cox Communications 6th Amended	0003	October 5, 2010		
Cox Communications 7th Amended	0003	November 1, 2010		
Cox Communications 8th Amended	0003	November 1, 2010		
<b>Wave Broadband Subtotal</b>			<b>88,241</b>	<b>\$3,680.9</b>
Wave Broadband	0004	December 7, 2007		
Wave Broadband 1st Amended	0004	April 1, 2010		
Wave Broadband 2nd Amended	0004	June 9, 2010		
<b>Cableview Communications</b>	0006	December 6, 2007	<b>3,832</b>	<b>\$159.9</b>

<b>Video Franchise Holders with Franchises Issued as of November 30, 2009</b>	<b>Franchise ID</b>	<b>Franchise Issue Date</b>	<b>Total Number of Households in Video Service Area</b>	<b>User Fee Assessment</b>
<b>Charter - American Cable Entertainment Company Subtotal</b>			<b>161,808</b>	<b>\$6,749.8</b>
American Cable Entertainment Company	0007	December 13, 2007		
American Cable Entertainment Company 1st Amended	0007	January 16, 2009		
American Cable Entertainment Company 2nd Amended	0007	April 7, 2009		
<b>Charter - Charter Communications Entertainment II Subtotal</b>			<b>563,999</b>	<b>\$23,527.1</b>
Charter Communications Entertainment II	0008	December 13, 2007		
CCE II 1st Amended	0008	June 27, 2008		
CCE II 2nd Amended	0008	August 11, 2008		
CCE II 3rd Amended	0008	November 10, 2008		
CCE II 4th Amended	0008	March 12, 2009		
CCE II 5th Amended	0008	March 23, 2009		
CCE II 6th Amended	0008	April 7, 2009		
CCE II 7th Amended	0008	November 8, 2010		
<b>Charter - Charter Communications Properties LLC Subtotal</b>			<b>160,450</b>	<b>\$6,693.1</b>
Charter Communications Properties II LLC	0009	December 13, 2007		
Charter Communications Properties 1st Amended	0009	November 10, 2008		
Charter Communications Properties 2nd Amended	0009	March 23, 2009		
Charter Communications Properties 3rd Amended	0009	- not issued -		
Charter Communications Properties 4th Amended	0009	May 21, 2010		
<b>Charter - Falcon Cable Systems Company II Subtotal</b>			<b>434,497</b>	<b>\$18,124.9</b>
Falcon Cable Systems Company II	0010	December 13, 2007		
Falcon Cable Systems 1st Amended	0010	February 25, 2008		
Falcon Cable Systems 2nd Amended	0010	June 27, 2008		
Falcon Cable Systems 3rd Amended	0010	November 10, 2008		
Falcon Cable Systems 4th Amended	0010	February 6, 2009		
Falcon Cable Systems 5th Amended	0010	October 30, 2009		
Falcon Cable Systems 6th Amended	0010	December 18, 2009		
Falcon Cable Systems 7th Amended	0010	February 8, 2010		
Falcon Cable Systems 8th Amended	0010	February 8, 2010		
Falcon Cable Systems 9th Amended	0010	November 8, 2010		

Video Franchise Holders with Franchises Issued as of November 30, 2009			Total Number of Households in Video Service Area	User Fee Assessment
	Franchise ID	Franchise Issue Date		
<b>Charter - Falcon Cablevision Subtotal</b>			<b>235,637</b>	<b>\$9,829.5</b>
Falcon Cablevision	0011	December 13, 2007		
Falcon Cablevision 1st Amended	0011	February 25, 2008		
Falcon Cablevision 2nd Amended	0011	August 11, 2008		
Falcon Cablevision 3rd Amended	0011	September 2, 2008		
<b>Charter - Falcon Telecable</b>			<b>7,987</b>	<b>\$333.2</b>
<b>Charter - Long Beach Subtotal</b>			<b>163,057</b>	<b>\$6,801.9</b>
Long Beach	0013	December 13, 2007		
Long Beach 1st Amended	0013	August 11, 2008		
<b>Charter - Marcus Cable Subtotal</b>			<b>232,401</b>	<b>\$9,694.5</b>
Marcus Cable	0014	December 13, 2007		
Marcus Cable 1st Amended	0014	June 27, 2008		
Marcus Cable 2nd Amended	0014	July 21, 2008		
Marcus Cable 3rd Amended	0014	October 6, 2008		
<b>Charter - Dalton Cablevision</b>			<b>50,726</b>	<b>\$2,116.0</b>
<b>TWC - Time Warner NY Cable LLC Subtotal*</b>			<b>3,767,906</b>	<b>\$157,177.1</b>
Time Warner NY Cable LLC	0005	November 15, 2007		
Time Warner NY Cable 1st Amended	0005	July 7, 2008		
Time Warner NY Cable 2nd Amended	0005	August 4, 2008		
Time Warner NY Cable 3rd Amended	0005	March 12, 2009		
Time Warner NY Cable 4th Amended	0005	March 23, 2009		
Time Warner NY Cable 5th Amended	0005	June 18, 2009		
Time Warner NY Cable 6th Amended	0005	July 16, 2009		
Time Warner NY Cable 7th Amended	0005	September 1, 2009		
Time Warner NY Cable 8th Amended	0005	July 1, 2010		
Time Warner NY Cable 9th Amended	0005	November 16, 2010		
<b>TWC - Time Warner Cable LLC Subtotal</b>			<b>355,942</b>	<b>\$14,848.0</b>
Time Warner Cable LLC	0018	December 19, 2007		
Time Warner Cable 1st Amended	0018	July 7, 2008		

Video Franchise Holders with Franchises Issued as of November 30, 2009	Franchise ID	Franchise Issue Date	Total Number of Households in Video Service Area	User Fee Assessment
<b>TWC - TWEAN Subtotal</b>			<b>344,635</b>	<b>\$14,376.3</b>
Time Warner Entertainment-Advance/Newhouse Partnership	0019	December 19, 2007		
TWEAN 1st Amended	0019	July 11, 2008		
TWEAN 2nd Amended	0019	August 6, 2008		
TWEAN 3rd Amended	0019	December 16, 2008		
TWEAN 4th Amended	0019	December 3, 2010		
<b>TWC - Time Warner Entertainment Company Subtotal</b>			<b>13,464</b>	<b>\$561.6</b>
Time Warner Entertainment Company	0020	December 19, 2007		
Time Warner Entertainment Company 1st Amended	0020	August 6, 2008		
<b>Northland Cable TV Inc. Subtotal</b>			<b>13,620</b>	<b>\$568.2</b>
Northland Cable TV Inc.	0015	December 14, 2007		
Northland Cable TV 1st Amended	0015	July 7, 2008		
Northland Cable TV 2nd Amended	0015	July 7, 2008		

Video Franchise Holders with Franchises Issued as of November 30, 2009			Total Number of Households in Video Service Area	User Fee Assessment
	Franchise ID	Franchise Issue Date		
<b>Comcast Subtotal</b>			<b>2,779,312</b>	<b>\$115,938.2</b>
Comcast	0021	January 2, 2008		
Comcast 1st Amended	0021	March 14, 2008		
Comcast 2nd Amended	0021	April 25, 2008		
Comcast 3rd Amended	0021	June 6, 2008		
Comcast 4th Amended	0021	July 28, 2008		
Comcast 5th Amended	0021	August 11, 2008		
Comcast 6th Amended	0021	October 16, 2008		
Comcast 7th Amended	0021	March 23, 2009		
Comcast 8th Amended	0021	July 29, 2009		
Comcast 9th Amended	0021	June 21, 2010		
Comcast 10th Amended	0021	August 26, 2010		
Comcast 11th Amended	0021	November 16, 2010		
<b>Baldwin County Internet/DSSI Service, LLC</b>	0022	March 3, 2008	<b>2,015</b>	<b>\$84.1</b>
<b>Audeamus, LLC dba Sebastian</b>	0023	April 4, 2008	<b>7,615</b>	<b>\$317.7</b>
<b>CalTel Connections dba Calaveras Cablevision</b>			<b>3,294</b>	<b>\$137.4</b>
CalTel Connections dba Calaveras Cablevision	0025	May 16, 2008		
CalTel Connections dba Calaveras Cablevision 1st Amended	0025	- not issued -		
<b>Antilles Wireless LLC dba Cable USA</b>	0026	June 9, 2008	<b>3,182</b>	<b>\$132.7</b>
<b>Astound Broadband Subtotal</b>			<b>324,150</b>	<b>\$13,521.8</b>
Astound Broadband	0028	October 16, 2008		
Astound Broadband 1st Amended	0028	November 9, 2009		
<b>Surewest Broadband Subtotal</b>			<b>385,760</b>	<b>\$16,091.9</b>
Surewest Broadband	0029	December 10, 2008		
Surewest Broadband 1st Amended	0029	April 29, 2009		
<b>Champion Broadband</b>	0030	December 22, 2008	<b>46,514</b>	<b>\$1,940.3</b>
<b>Capp's TV Electronics Inc - Ceased Operations in 2010</b>	0031	February 17, 2009	<b>2,538</b>	<b>\$0</b>
<b>Redwood IPTV, LLC</b>	0032	August 31, 2009	<b>117,817</b>	<b>\$4,914.7</b>
<b>Mediacom</b>	0033	September 23, 2009	<b>114,995</b>	<b>\$4,797.0</b>

<b>Video Franchise Holders with Franchises Issued as of November 30, 2009</b>	<b>Franchise ID</b>	<b>Franchise Issue Date</b>	<b>Total Number of Households in Video Service Area</b>	<b>User Fee Assessment</b>
<b>Suddenlink Communications</b>			<b>16,858</b>	<b>\$703.2</b>
<b>Suddenlink Communications</b>	0034	November 4, 2009		
<b>Suddenlink Communications 1st Amended</b>	0034	November 1, 2010		
<b>Volcano Vision, Inc.</b>	0035	November 19, 2009	<b>2,351</b>	<b>\$98.1</b>
<b>Greenfield Communications, Inc</b>	0036	January 19, 2010	<b>1,791</b>	<b>\$74.7</b>
<b>CalNeva Broadband, LLC</b>	0037	March 1, 2010	<b>7,789</b>	<b>\$324.9</b>
<b>Horizon Cable TV, Inc.</b>	0038	October 5, 2010	<b>4,284</b>	<b>\$178.7</b>
<b>Bright House Networks, LLC</b>	0039	November 1, 2010	<b>2,439</b>	<b>\$101.7</b>
<b>Total</b>			<b>22,773,745</b>	<b>\$950,000.00</b>

\* Note: Time Warner transferred CAC Exchange I, CAC Exchange II, and C Native Exchange I to Time Warner NY Cable in its 4th amendment

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