

Decision 07-11-039 November 16, 2007

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

Order Instituting Rulemaking into the Review of  
the California High Cost Fund B Program.

Rulemaking 06-06-028  
(Filed June 29, 2006)

**ORDER CORRECTING ERRORS IN  
DECISION 07-09-020**

This order corrects certain non-substantive errors in Decision (D.) 07-09-020 regarding the reform of the California High Cost Fund-B (CHCF-B or B-Fund) program. These corrections are nonsubstantive in nature.

**Summary of Corrections**

**Procedure for Implementing CHCF-B Surcharge Reduction**

The description of the procedure to implement adopted B-Fund surcharge reduction as set forth in D.07-09-020 is hereby corrected. D.07-09-020 described the advice letter for implementing the reduction as requiring a Commission resolution for approval. No Commission resolution is necessary, however, for Tier 1 advice letters, such as the one to implement the B-Fund surcharge reduction authorized in D.07-09-020. Also, the correct procedure requires that only AT&T file an advice letter to implement the surcharge reduction. Other telephone corporations are not required to file an advice letter, but merely to adjust the surcharge appearing on their customer's bills to conform to the 0.5% level effective January 1, 2008.

To make the necessary corrections to D.07-09-020, the relevant portion of page 52 of the decision is amended as follows:

“We direct AT&T to file a Tier 1 advice letter on or before December 3, 2007, modifying the surcharge from 1.3% to 0.5% effective January 1, 2008, and thereafter until further revised by the Commission. Furthermore, all telephone corporations subject to the B-Fund surcharge are directed to assess the revised CHCF-B surcharge of 0.5% on their end-users’ bills rendered for intrastate telecommunications services on January 1, 2008 and thereafter, until further revised by the Commission.”

The footnote 79 is also modified to read as follows:

“Since the AT&T advice letter implementing the 0.5% surcharge reduction will merely be a ministerial act, the advice letter shall be categorized as Tier 1.”

A corresponding correction is made to Ordering Paragraph 5 of D.07-09-020.

**Correction of Ordering Paragraph 6**

Ordering Paragraph 6 is revised to add explicit authorization for AT&T and Verizon to increase their basic residential rate by up to 2.36% on January 1, 2008.

**Correction of Ordering Paragraph 7 and 13(b)**

Ordering Paragraph 7 and 13(b) of D.07-09-020 are corrected to describe the phase-in of increases in the basic rate caps in a manner consistent with the discussion within the decision’s text. Thus, instead of stating that the phase-in will increase the basic rate cap up to the adopted \$36 high-cost benchmark, the language is corrected to state that the cap will increase to a level to be determined as necessary to avoid sudden large rate increases and for an orderly transition to full pricing flexibility.

The corrected Ordering Paragraph 7, with revised text underlined, thus reads:

7. On those dates, respectively, the basic rate freeze shall be lifted on all remaining basic residential lines, but subsequent increases in ILEC basic rates shall be phased in under a process to be determined in Phase II of this proceeding in order to bring basic rate caps up to the level as necessary for a transition to full pricing flexibility to avoid sudden large increases in basic service rates.

The corrected Order Paragraph 13(b), with revised text underlined, thus reads:

13. The Commission shall undertake a second phase of this proceeding to resolve the remaining issues in this proceeding. Specifically, the second phase of the proceeding shall address the following issues:

...

(b) Implement a process for the phase-in of increases in the caps on COLR basic rates to transition from the current levels up to a level to be determined as necessary for a gradual transition to full pricing flexibility and to avoid sudden large rate increases in basic service.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code, the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Rachelle B. Chong is the assigned Commissioner and Thomas R. Pulsifer is the assigned ALJ in this proceeding.

**IT IS ORDERED** that:

1. Decision (D.) 07-09-020 is amended to incorporate the correction of nonsubstantive errors, as described in the text above.
2. The revised corrections, as incorporated in the attached amended pages, supersede the original pages appearing in D.07-09-020.

This order is effective today.

Dated November 16, 2007, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners

**D.07-09-020 - Page 52 (Revised)**

payment subsequent to this order, we direct that any new claims for B-Fund support clearly identify the specific CBGs, and associated proxy costs, that have been eliminated and that are no longer eligible for B-Fund support due to revisions in the threshold benchmark. COLRs shall provide this documentation separately for each successive change in the benchmark level, as set forth in the Appendix Table 1 schedule of this order.

We also shall authorize a B-Fund surcharge of 0.5%, which represents a reduction from the current 1.3% surcharge. We believe that this reduction is appropriate given the diminishing levels of claims we anticipate going forward as a result of the revised threshold we are adopting. We direct AT&T to file a Tier 1 advice letter to implement the revised 0.5% surcharge, to become effective by January 1, 2008.<sup>79</sup> Furthermore, all telephone corporations subject to the CHCF-B surcharge shall assess the revised 0.5% CHCF-B surcharge beginning January 1, 2008.

**6. California Advanced Services Fund Component of CHCF-B**

In the identification of issues for comment in the OIR, we raised the issue of whether the Commission should reconsider the definition of basic residential service and include an enhanced service such as broadband, which may be used to provide not only basic residential service but other telecommunications or information services.<sup>80</sup> As part of this proceeding, we also sought additional comments on the need for reporting on broadband services.<sup>81</sup> In its comments, SureWest states that because the deployment of broadband services encompasses . . .

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<sup>79</sup> Since the AT&T Advice Letter implementing the 0.5% surcharge will merely be a ministerial act, the Advice Letter shall be categorized as Tier I.

<sup>80</sup> See OIR at 48 (Sec. V.G. 6).

<sup>81</sup> Assigned Commissioner's and Administrative Law Judge's Ruling Soliciting Further Comments regarding reform of the California High Cost Fund-B Program, February 23, 2007.

**D.07-09-020 - Page 128 (Revised)**

COLR submitting any subsequent claims for B-Fund support shall clearly identify, for each of the revisions to the threshold amount, as shown in Appendix Table 1, the specific Census Block Groups, and associated proxy costs, that have been eliminated and are no longer eligible for B-Fund support due to revisions in the threshold benchmark.

3. During the transition period as the benchmark is increased from \$20.30 up to \$36, the existing formula for B-Fund support shall apply, whereby lines with costs above the high-cost benchmark receive support for the difference between the basic rate plus EUCL and the benchmark. This additional subsidy component shall be discontinued, however, once the \$36 benchmark is fully phased in. At that point, the per-line support shall be limited only to the applicable costs that exceed the \$36 benchmark.

4. The Commission hereby authorizes an inquiry in Phase II as to the establishment of a California Advance Services Fund (either under the B-Fund or as a new fund program) to be implemented for the purpose of promoting the deployment of broadband services in areas that are not served or that are underserved within the service territories of the Incumbent LECs that are currently subject to the B-Fund. The specific measures to fund and implement the California Advanced Services Fund, and to develop rules for eligibility to draw from the CASF shall be addressed in the next phase of this proceeding.

5. Effective January 1, 2008, the B-Fund retail surcharge shall be reduced to 0.5% to reflect the anticipated reduced level of B-Fund support claims resulting from the revised threshold benchmark adopted in this order. AT&T is directed to file an advice letter under Tier 1 to implement the revised 0.5% surcharge, to become effective by January 1, 2008. Furthermore, all telephone corporations subject to the B-Fund surcharge are directed to assess the revised CHCF-B surcharge of 0.5% on their end-users' bills rendered for intrastate telecommunications services on January 1, 2008 and thereafter, until further revised by the Commission.

**D. 07-09-020- page 129 (Revised)**

6. The basic rate freeze shall be lifted for AT&T and Verizon on January 1, 2008, and for SureWest and Frontier on January 1, 2009. AT&T and Verizon are authorized to increase their respective basic monthly residential rate by up to 2.36% on January 1, 2008.

7. On those dates, respectively, the basic rate freeze shall be lifted on all remaining basic residential lines, but subsequent increases in ILEC basic rates shall be phased in under a process to be determined in Phase II of this proceeding in order to bring basic rate caps up to the level as necessary for a transition to full pricing flexibility to avoid sudden large increases in basic service rates.

8. Upon the conclusion of the phase-in period, COLRs shall be granted full flexibility to adjust basic rates.

9. As a basis to receive B-Fund support after full pricing flexibility takes effect, however, a COLR must certify annually that it is not charging rates for basic service in excess of the benchmark levels that we establish herein. A COLR that does not make the required annual certification must provide detailed a detailed showing as to why they are unable to comply with the Commission's Orders. The Commission will evaluate the evidence and determine what, if any, action is required.

10. As a basis for considering the implementation of the CASF, comments shall be solicited in Phase II on the overall size and funding of the CASF, considering its function as a limited source of matching funds to build advanced infrastructure in California in conjunction with the California Emerging Technology Fund. We shall specifically solicit comments as to the merits of funding and administering the CASF under the CHCF-B versus establishing an entirely independent new funding program. Funding not otherwise directed for use by January 1, 2010, will be used to reduce the B-Fund surcharge in the 2010-2011 funding year.

11. Comments are also solicited as to whether an application should open a sixty day window for other applications for substantially the same geographic



**D.07-09-020 - Page 130 (Revised)**

area. CASF applicants must meet specific audit, verification, and other requirements with respect to the use of the funds, subject to procedures adopted in the next phase of the proceeding. We will specifically look at whether the use of “telephone corporation” in Pub. Util. Code § 739.3(c) may limit recipients to those entities qualifying under Pub. Util. Code § 234.<sup>188</sup>

12. In the next phase of this rulemaking, comments shall also be solicited on the merits of the process for candidates to apply for funding the California Advanced Services Fund set forth in Appendix 3.

13. The Commission shall undertake a second phase of this proceeding to resolve the remaining issues in this proceeding. Specifically, the second phase of the proceeding shall address the following issues:

- (a) Implement updated cost proxies utilizing the HM 5.3 Model for qualifying High Cost Census Block Groups for each of the COLRs,
- (b) Implement a process for the phase-in of increases in the caps on COLR basic rates to transition from the current levels up to the level to be determined as necessary for a gradual transition to full pricing flexibility and to avoid sudden large rate increases in basic service.
- (c) Implement a process whereby the COLR shall certify that its basic rates do not exceed the designated benchmark as a basis to qualify for B-Fund support once full pricing flexibility takes effect;
- (d) Consider the possible modification of rules to accommodate a broader base of eligibility for B-Fund support to include wireless and other intermodal carriers. Comments shall be taken as to the merits of such a modification to promote competitive neutrality in the allocation of B-Fund support, consistent with public policy goals.

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<sup>188</sup> See, Pub. Util. Code §§ 233 and 234.

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ATTACHMENT

**(END OF ATTACHMENT)**