

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Public Programs Branch ***

**RESOLUTION T-16589
October 10, 2001**

R E S O L U T I O N

RESOLUTION T-16589. APPROVAL OF THE CALIFORNIA HIGH COST FUND-A BUDGET AND SURCHARGE RATE FOR JANUARY 1 TO JUNE 30, 2002 TO COMPLY WITH THE REQUIREMENTS OF PUBLIC UTILITIES CODE SECTIONS 270-281.

SUMMARY

On August 29, 2001, the California High Cost Fund-A (CHCF-A) Administrative Committee (AC) ¹ filed with the Executive Director of the Public Utilities Commission its proposed budget for January 1, 2002 to June 30, 2002 in the amount of \$20.573 million and a surcharge rate of 0.13% for January 1, 2002 to June 30, 2002. The proposed budget incorporates organizational and administrative expenses associated with the implementation of Public Utilities (P.U.) Code Sections 270-281 (Chapter 1.5 to Part 1, Division 1 of the P.U. Code). These required expenses are the result of Senate Bill 669 (SB 669), which became effective on January 1, 2000, as amended by Senate Bill 742, signed by the Governor in 2001, to transfer the funds of the CHCF-A Program to the State Treasury beginning October 1, 2001.

This resolution approves the budget of \$20.573 million and a surcharge rate of 0.30% for the CHCF-A ² effective January 1, 2002.

BACKGROUND

¹ -A AC will function as an Advisory Committee, not as an Administrative Committee, on October 1, 2001 and thereafter.

² Pursuant to Public Utilities Code § 270 (a) (1), the fund name will be California High Cost Fund A-Administrative Committee Fund.

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-size and seventeen small Local Exchange Companies (LECs) whose basic exchange access line service rates would otherwise be increased to levels that would threaten universal service. The HCF was funded by an increment in Pacific Bell's (Pacific) intrastate carrier common line charge (CCLC) and administered by Pacific. D.94-09-065 changed the funding source from an increment in the CCLC to an all end-user surcharge and reaffirmed Pacific as the administrator of the fund. Recognizing the public nature of the surcharge revenues, Pacific set up a separate trust and appointed Union Bank of California as trustee for the depository and custodian of the monies. In February 1997, the HCF Trust received tax-exemption from the Internal Revenue Service as an integral part of the Commission, a governmental agency.

D.96-10-066 changed the name of HCF to CHCF-A and created the California High Cost Fund-B (CHCF-B). This decision included the three mid-size LECs in the CHCF-B for the purpose of determining universal service subsidy support and maintained the CHCF-A for the 17 small LECs. This decision also directed the Commission to take over the administration of the CHCF-A from Pacific.

Resolution T-16092 approved the transfer of the administrative control of the CHCF-A from Pacific to the Commission effective January 1, 1998. This resolution appointed three Commission staff members as committee members of the CHCF-A Trust Administrative Committee charged with the responsibilities of administering the CHCF-A on behalf of the Commission. D.98-06-065 renamed the committee as CHCF-AC and revised the governance of the CHCF-A consistent with State rules and procedures.

In October 1999, PU Code § 270-281 were codified as a result of the enactment of Senate Bill 669 (Stats 1999, Chapter 677). § 270(b) requires that the monies in the CHCF-A and five other programs may only be expended pursuant to § 270-281 and upon appropriation in the annual Budget Act.

On January 24, 2001 Telecommunications Division (TD) called for an informal working group³ and conducted a meeting to develop a transition plan to change the current CHCF-A process from a calendar year to a fiscal year basis. Recognizing that the small LECs' books of account, the federal universal service program, and the CHCF-A implementation rules are based on a calendar year basis, parties in this informal working group concurred to establish two separate processes for the CHCF-A. The current process to determine CHCF-A support payments on a calendar year basis

³ Parties in this informal working group included Garth Black of Cooper, White & Cooper, LLP, David Tutt of Moss Adams, Dan Douglas of Ponderosa Telephone, Jeff Beck of Beck & Ackerman, Virginia Ragasa and Elaine Yee of AT&T, Greg Geminiani of Pacific Bell, Charles Born of Citizens, David Shantz, Hassan Mirza, Richard Fish, Angela Young and Geraldine Carlin of TD.

should remain. The process for the funding of the program for budgetary purposes also required the conversion to a fiscal year basis consistent with the State's budget process to facilitate the implementation of PU code § 270(b).

Although it was agreed in the informal working group that the small LECs will submit to TD by October 2001 advice letters for CY 2002 which will be the basis for the first six months of 2002 budget, surcharge rate and CY 2002 payments, this needs to be changed in view of recent developments.

In August 2001, TD was informed of the approval of the State budget for FY 2001-02 and the amounts included for the CHCF-A program for the last nine months of FY 2001-02 to implement P.U. Code § 270 (a) (1), 270 (b), 270(c), 274, and 275 on October 1, 2001. This required the CHCF-A AC, with the assistance of TD staff, to submit the January through June 2002 budget and surcharge rate for CHCF-A taking into account the state approved budget, the program fund balances as of August 1, 2001, the projected payments, administrative expenses including the costs required to implement P.U. Code § 270 (a) (1), 270 (b), 270(c), 274, and 275 and minimal ending cash balances.

Since the program payments are budgeted based on a fiscal year basis and following the understanding reached in the informal working group, the small LECs are still required to submit on or before October 1, 2001, advice letters covering their CHCF-A requirements or annual program support for Calendar Year 2002.

The AC's August 29, 2001 letter request to the Executive Director, filed in compliance with Ordering Paragraph 7 of Resolution T-16521, dated June 14, 2001, seeks approval of the January 1 to June 30, 2002 budget of \$ 20.573 million and a surcharge rate of 0.130%. In its budget filing for the first six-months of Calendar Year 2002, the AC adjusted the Commission adopted CY 2001 budget for the administrative and related SB 669 costs associated with the transfer of CHCF-A fund balance to the State Treasury on October 1, 2001. The California Legislature and Governor included in the State Budget the SB 669 related costs for the CHCF-A program. In addition, in estimating the CHCF-A program payments for January to June 2002, CHCF-AC used the projections of the 17 small LECs in May 1, 2001 in response to the TD Director's letter of March 7, 2001 requiring the submission of their projected funding requirements for the period July 1, 2002 to June 30, 2003 on or before May 1, 2001. CHCF-A used the submitted 12-month projections of the small LECs in estimating the January through June 2002 estimated program payments.

NOTICE/PROTESTS

Notice of the AC's budget letter request was published in the Commission Daily Calendar of August 30, 2001.

On September 10, 2001, Cooper, White and Cooper LLP⁴ submitted a response to the AC's budget letter request. Cooper, White and Cooper notes that the ending balance on June 2002 represents approximately one month's payment reserve, which is a departure from historic norms where a Fund balance of approximately three or four months is typical. The small LECs do not believe that it is prudent to leave only one month's reserve in the Fund as any delay in draw or budget authorizations will deplete the reserve and delay or stop the monthly payments to the small companies. This would have an adverse financial impact on these companies financial condition. Cooper, White and Cooper, therefore requests that the surcharge rate be increased so that the reserve can be increased to the historically maintained level.

TD acknowledges the minimal reserve being proposed for the January to June 2001 budget. As with all the other public programs, starting Fiscal Year 2001-2002, the ending fund balance is being kept to a minimum.

DISCUSSION

In this Resolution, the Commission adopts the following:

- The CHCF-A program budget for January 1 to June 30, 2002 in the amount of \$20.573 million.
- The increase in the surcharge rate to 0.30% from 0.20% to take effect on January 1, 2002 until further revised by the Commission.

Of the \$20.573 million adopted budget for January through June 2002, \$20.441 million is for claim payments or monthly support to the small LECs, \$10, 000 for financial

⁴ Cooper, White and Cooper sent the response in behalf of Calaveras Telephone Co., Cal-Ore Telephone Co., Citizens Telecommunications Co. of the Golden State, Citizens Telecommunications Co. of Toulumne, Ducor Telephone Co., Evans Telephone Co., Foresthill Telephone Co., Happy Valley Telephone Co., Hornitos Telephone Co., Kerman Telephone Co., Pinnacles Telephone Co., Inc., The Ponderosa Telephone Co., Sierra Telephone Co., Inc., The Siskiyou Telephone Co., The Volcano Telephone Co., and Winterhaven Telephone Company.

audit, \$9, 000 for banking fees, \$4,300 for Advisory Committee expenses, and \$108, 667 for SB 669 Administrative/Staff Costs. The Advisory Committee expenses are composed of per diem of \$1,800, and travel and other expenses of \$2,500. The banking fees cover the operation and maintenance of the lockbox, which is estimated to cost \$1,500 a month.

Based on the sharp downturn of the telecommunications revenues subject to surcharges reported to the Commission by telecommunications carriers in recent months and the growing concerns about the health of the national economy, the estimated telecommunications revenues subject to surcharges are revised to \$15,181 million for FY 2001-2002. The revised forecast for FY 2001-02 is based on the average reported telecommunications revenues subject to surcharges in recent months, annualized compounded by a reduction of \$ 411 million. This \$411 million adjustment reflects the anticipated amount of "catch-up" surcredits that will be implemented by Pacific Bell and Roseville Telephone Company during FY 2001-02 pursuant to D. 98-11-039. The adjusted CY 2001 budget considers the revision to \$15,181 million in calculating the estimated CHCF-A surcharge revenue starting October 2001 onwards.

A CHCF-A surcharge rate of 0.30% to take effect on January 1, 2002 until further revised by the Commission is adopted in lieu of the Administrative Committee proposal of 0.13%. The increase in the surcharge rate from the current 0.20% is necessary to offset the negative variance between the actual telecommunications surcharges collected in recent months and the estimated surcharge collections for the same period, the depletion of the fund reserves and the growing concerns about the health of the economy. The adoption of a surcharge rate of 0.30% will result in funding the CHCF-A total expenses of \$20.573 million for January through June 2002, and will leave an estimated fund balance of \$ 3,568,692 on June 30, 2002, while maintaining the surcharge rate at 0.0.30% through fiscal year 2002-03.

NOTICE TO OTHER CARRIERS AND ADVICE LETTER FILING

In Resolution T-15558 (dated June 8, 1994) we waived the notice requirements of General Order 96-A, Section III, G.1, to furnish competing utilities either public or private copies of related tariff sheets. We did so because it did not appear to be in the public's interest for each utility to send and receive over two hundred notices advising them of regulatory changes about which they already know. Since that time, nothing has happened to change our opinion, so we will waive this notice requirement for tariff changes, which comply with this resolution.

The TD oversees the administration of eight public programs. The surcharge rates of one or more of these programs will be revised on January 1, 2002 and will remain effective until revised again by another Commission order. For administrative efficiency, we will allow all telecommunications utilities that are subject to the

surcharges for these various programs to file concurrently revised tariff schedules in compliance with resolutions and decisions revising these surcharges in accordance with the provisions of G.O. 96-A on or before December 15, 2001. These advice letters shall become effective January 1, 2002 and will remain effective until revised again by another Commission order.

COMMENTS

In compliance with PU Code § 311 (g), the draft of this Resolution was mailed on September 13, 2001 to the 17 small LECs, the CHCF-AC, the parties on the service list of I.87-011-033. A copy of the cover letter of this mailing was also sent to each of the Commission certificated telecommunications carriers informing parties that this draft resolution is available at the Commission's website www.cpuc.ca.gov/static/industry/telco/resolutions/index.htm and is available for public comments. In addition, the Telecommunications Division (TD) informed these parties of the availability of the conformed resolution at the same website.

TD received no comments on the draft resolution. In the absence of any comments or protests, this is an uncontested matter for which the Commission may reduce the period for comment or review. (Commission Rule of Practice and Procedure 77.7 (f)) Accordingly, the comment and the review period for this resolution are shortened from 30 to 27 days.

FINDINGS

1. In October 1999, Public Utilities Code (PU) Code § 270-281 were codified as a result of the enactment of Senate Bill 669.
2. PU Code § 270(b) requires that the monies in California High Cost Fund-A (CHCF-A) Administrative Committee Fund may only be disbursed pursuant to § 270-281 and upon appropriation in the annual Budget Act.
3. In compliance with PU Code § 270(b), the Telecommunications Division (TD) called for an informal working group on January 24, 2001 to change the current CHCF-A process from a calendar year to a fiscal year basis.
4. Recognizing that the small LECs books of account, the federal universal service program, and the CHCF-A implementation are based on a calendar year basis, parties in this informal working group concurred to establish two separate processes for the CHCF-A program.
5. The current process to determine CHCF-A support payments on a calendar year basis should remain.

6. The process for the funding of the program for budgetary purposes should be converted to a fiscal year basis consistent with the State's budget process to facilitate the implementation of PU Code § 270 (b).
7. In August 2001, TD was informed of the approval of the State Budget and the amounts included for fiscal year 2001-02 to implement on October 1, 2001 P.U. Code § 270-281 for CHCF-A.
8. The CHCF-A Administrative Committee (CHCF-A AC) sent a letter to the Executive Director requesting the approval of the CHCF-A January 1 to June 30, 2002 budget of \$20.573 million and a surcharge rate of 0.130%.
9. The CHCF-A Administrative Committee used the submitted projections of the small LECs for FY 2002-03 in estimating the program payments for January 1 to June 30, 2002.
10. The CHCF-A program total budget of \$20.573 million for January 2001 to June 2002 is reasonable and should be adopted.
11. The CHCF-A surcharge rate should be 0.30% and should be in effect on January 1, 2002 and remain in effect until further revised by the Commission.
12. The adoption of a surcharge rate of 0.30% will result in funding the CHCF-A total expenses of \$20.573 million for the first six-months of year 2002, and will leave an estimated fund balance of \$ 3,568,692 on June 30, 2002.
13. The draft of this resolution was mailed to the 17 small LECs, the CHCF-Administrative Committee, and the parties of record in I.87-11-033 on September 13, 2001. A copy of the cover letter of that mailing was also sent to each of the Commission certificated telecommunications carriers advising them of the availability of this draft resolution and the conformed resolution, when adopted by the Commission, on the Commission's web site.
14. For administrative efficiency, it is reasonable to allow all telecommunications utilities that are subject to the various public program surcharges to file concurrently revised tariff schedules in compliance with the resolutions and decisions revising these surcharges in accordance with the provisions of G.O. 96-A on or before December 15, 2001. Such filings will become effective January 1, 2002 and remain in effect unless revised by another Commission order.
15. Since nothing has happened since the time the Commission waived the notice requirements of General Order 96-A, Section III, G.1(Resolution T-15558 dated

June 8, 1994) , the notice requirement for tariff changes complying with this resolution will continue to be waived.

THEREFORE, IT IS ORDERED that:

1. The budget for the California High Cost Fund-A (CHCF-A) for January 1, 2002 to June 30, 2002 of \$ 20.573 million, as set forth in Appendix A of this resolution is adopted.
2. A revised surcharge level of 0.30% shall take effect on January 1, 2002 and remain in effect until further revised by the Commission. All certificated telecommunications carriers in California shall apply this surcharge rate on their end-users' bills rendered on or after January 1, 2002 for intrastate services. All certificated telecommunications carriers required to file tariffs with the Commission shall file advice letters by December 15, 2001 revising the CHCF-A surcharge consistent with this Resolution.
3. All telecommunications carriers who are required to collect the surcharges for the various public programs may concurrently file revised tariff schedules in compliance with the resolutions or decisions revising these surcharges by advice letters in accordance with the provisions of General Order 96- A, Section III, G.1 (Resolution T-15558 dated June 8, 1994) on or before December 15, 2001. The advice letter shall become effective January 1, 2002 and remain in effect until further revised by the Commission.
4. All Local Exchange Companies (LECs) and Interexchange Companies (IECs) are granted an exemption from the noticing requirement of General Order 96- A, Section III, G.1 (Resolution T-15558 dated June 8, 1994), for surcharge changes resulting from this resolution only.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 10, 2001. The following Commissioners approved it:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

APPENDIX A

CALIFORNIA HIGH COST FUND-A PROGRAM BUDGET FOR JANUARY - JUNE 2002				
	ADOPTED CY 2001 ¹	ADJUSTED CY 2001 ²	ADMIN COMMITTEE PROPOSED Jan - June 2002	ADOPTED JAN - JUNE 2002
1 BEGINNING FUND BALANCE	\$12,502,843	\$12,502,843	\$10,317,256	\$2,635,051
REVENUES				
2 PROJECTED BILLING BASE³	19,414,000,000	18,355,749,986	9,707,000,000	7,590,500,000
3 SURCHARGE RATE	0.20%	0.20%	0.13%	0.30%
4 SURCHARGE REVENUE⁴	19,414,000	8,501,982	13,751,583	21,506,417
OTHER INCOME				
5 INVESTMENT INCOME⁵	524,034.00	456,049	0	0
6 INTEREST	0	0	0	0
7 PENALTY	0	0	0	0
8 TOTAL OTHER INCOME (L5+L6+L7)	524,034	456,049	0	0
9 TOTAL REVENUE (L4+L8)	19,938,034	8,958,031	13,751,583	21,506,417
PROGRAM EXPENSE				
10 CLAIM PAYMENTS^{6,7}	21,969,360	18,741,630	20,440,819	20,440,819
AUDITS				
11 FINANCIAL AUDIT	10,000	5,000	10,000	10,000
12 COMPLIANCE AUDIT	0	0	0	0
13 REMITTANCE AUDIT	0	0	0	0
14 CLAIMS AUDIT	0	0	0	0
15 TOTAL AUDITS (L11+L12+L13+L14)	10,000	5,000	10,000	10,000
BANKING FEES⁸				
16 TRUST	15,000	17,450	0	0
17 LOCKBOX	5,950	5,250	9,000	9,000
18 TOTAL BANKING FEES (L16+L17)	20,950	22,700	9,000	9,000
COMMITTEE EXPENSES				
19 PER DIEM	0	900	1,800	1,800
20 TRAVEL & OTHER EXPENSES	0	1,250	2,500	2,500
21 TOTAL COMMITTEE EXPENSES (L19+L20)	0	2,150	4,300	4,300
22 TOTAL PROGRAM EXPENSES (L10+L15+L16+L21)	22,000,310	18,771,480	20,464,119	20,464,119
ADMIN/STAFF				
23 EXTERNAL STAFF	0	0	0	0
24 SB 669 INTERNAL STAFF^{9,10}	0	54,333	108,667	108,667
25 TOTAL ADMIN/STAFF (L22+L23)	0	54,333	108,667	108,667
26 SB 669 INTERAGENCY COSTS	0	0	0	0
27 TOTAL EXPENSES (L10+L15+L16+L21+L25+L26)	22,000,310	18,825,814	20,572,786	20,572,786
28 PROJECTED ENDING BALANCE (L1+L9-L27)	\$10,440,567	\$2,635,061	\$3,496,054	\$3,568,692

1 CY 2001 budget was adopted by the Commission in Resolution T-16521.

2 Adjusted CY 2001 budget is on a cash basis, estimates surcharge revenue starting October 2001

based on the new billing base for Fiscal Year 2001-2002 of \$15,181 million, reflects the costs associated with the implementation of P.U. Code Sections 270 (a) (1), 270 (b), 270(c), 274, and 275 on October 1, 2001, the actual beginning fund balance as of September 1, 2001, and program costs from September to December 2001. The adjusted CY 2001 budget is the basis for projecting the January to June 2002 program budget and fund balance.

3 The revised estimate for the Calendar Year 2001 and the January to June 2002 projection are based on the the revised FY 2001-2002 projected billing base of \$15,181

4 Although the surcharge rate for CY 2001 is effective July 1 and the surcharge rate for Jan - June 2002 is effective Jan 1, 2002,

the remittance of the surcharge revenues is expected 40 days later. In addition, the difference of \$11 million in surcharge remittance revenue between adopted CY 2001 and adjusted CY 2001 is due to lower than expected surcharge remittance from carriers in August and September 2001.

5 Investment income is assumed to be 0 once funds are deposited in the State Treasury as required by SB 669.

6 CY 2002 payments for the first 6 months of 2002 will be proposed

by carriers and the CHCF-A Program in October 2001.

7 Program payment is based on small LECs forecast of requirements for FY 2002-2003 submitted in May 2001.

8 Lockbox fee is \$1500 per month, trust fees is \$1,250 per month and annual post office lockbox fee is \$750.

9 SB 669 costs refer to costs associated with the transfer of CHCF-A funds to the State Treasury. Implementation is on October 1, 2001.

10 Portion of the amount for SB 669 internal staff includes Bldg. Addition for IM&D staff allocated to the program.