Date of Issuance: January 12, 2012

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division **RESOLUTION T-17353**
Policy & Decision Analysis Branch **January 12, 2012**

R E S O L U T I O N

Resolution T-17353. ADOPTING ANNUAL FEE TO IMPLEMENT THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT (DIVCA) FOR FISCAL YEAR 2011-12.

Summary

This Resolution sets the annual fee for the fiscal year 2011-2012 to be paid by each video franchise holder at $0.0423 (4.23 cents) per household in its video franchise territory. This is a 1.4% increase from 4.17 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.[1] On March 1, 2007, the Commission issued D. 07-03-014 (DIVCA Decision)[2], implementing DIVCA, and began accepting video franchising applications immediately thereafter. To date, the Commission has issued 127 video franchises and amendments.

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[1] AB 2987, 2005-2006 Session (Ca. 2006); Cal. Pub. Util. Code, Division 2.5, The Digital Infrastructure and Video Competition Ace of 2006 (DIVCA).
[2] *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).

DIVCA requires the Commission to collect annual fees from all state-issued video franchise holders.[3] The total amount of fees collected is to equal the amount authorized in the Commission budget for DIVCA implementation. For the 2011-2012 fiscal year, $950,000 was authorized to implement the state video franchise program.[4] 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.[5] 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 pro-rata allocation of households in holders' video service territories, rather than according to revenues, through the 2011 -2012 fiscal year. [6]

Comments

There were no comments received.

Discussion

This Resolution sets the annual fee due per household in a video franchise holder's service area for FY 2011-2012 consistent with the D. 09-04-011.

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[3] 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)….

[4] Decision 07-03-014, p. 115.
[5] Decision 07-03-014, pp. 122-123
[6] *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, 2012 are required to pay the annual fee for the full Fiscal Year 2011-12. Video franchise holders with franchises issued on or before the date of this Resolution must pay their annual fees for Fiscal Year 2011-12 before April 30, 2012. 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, 2012, whichever is earlier.

The total number of households that existed in the franchise territories of all franchise holders as of December 2, 2011 was 22,441,618. This number declined by 332,127 or 1.5% from last year's total, because last year's household total was forecast from the 2000 census. This year we used actual numbers from the 2010 census.

In order to generate the $950,000 authorized for the Commission's Fiscal Year 2011-2012 DIVCA-related budget, the amount due per household is $0.0423.[7] This is a 1.4% increase from $0.0417 per household last year and a decrease from $0.0434 the year before last.

Appendix A lists each of the franchise holders as of December 2, 2011, the number of households in their service area, and their total annual fee for the 2011-2012 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 December 9, 2011.

[7] While the per-household fee for FY 2011-2012 is 4.23 cents, by way of comparison, the per-household fee for FY 2008-09 was 4.48 cents per household.

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 2011-2012 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.

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 all Holders' video franchise territories as of November, 21, 2010 was 22,441,618. This is a 1.5% (332,127) decrease from 22,773,745 last year and an increase from 21,849,660 households the year before last.

5. The Commission's authorized DIVCA-related budget for the fiscal year 2011-2012 is $950,000.

6. A fee of $0.0423 per household is reasonably calculated to collect an amount equal to its DIVCA-related budget for the 2011-2012 fiscal year.

7. A schedule of fees based on franchises issued by December 2, 2011 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).

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, 2012.

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, 2012, whichever is earlier.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on January 12, 2012. The following Commissioners approved it:

/s/ Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

Appendix A– Fiscal Year 2011-2012 Annual Fee Assessment Based on the Number of Households in Video Franchise Area

Video Franchise Holders with Franchises Issued as of December 2, 2011	Franchise ID	Franchise Issue Date	*Total Number of Households in Video Service Area*	*Fee Assessment*
Verizon California, Inc	001	March 8, 2007		
Verizon California, Inc. 1st Amended	001	December 19, 2007		
Verizon California, Inc. 2nd Amended	001	April 1, 2009		
Verizon California Subtotal			***1,954,008***	***$82,655***
Pacific Bell Telephone Company dba AT&T California	002	March 30, 2007		
AT&T California 1st Amended	002	July 29, 2009		
AT&T California 2nd Amended	002	September 21, 2009		
AT&T California 3rd Amended	002	August 26, 2010		
AT&T California 4th Amended	002	December 2, 2011		
AT&T California Subtotal			***9,733,865***	***$411,742***
Cox Communications	003	April 27, 2007		
Cox Communications 1st Amended	003	January 2, 2008		
Cox Communications 2nd Amended	003	May 2, 2008		
Cox Communications 3rd Amended	003	May 29, 2009		
Cox Communications 4th Amended	003	June 23, 2009		
Cox Communications 5th Amended	003	January 7, 2010		
Cox Communications 6th Amended	003	October 5, 2010		
Cox Communications 7th Amended	003	November 1, 2010		
Cox Communications 8th Amended	003	November 1, 2010		
Cox Communications 9th Amended	003	February 17, 2011		
Cox Communications 10th Amended	003	March 25, 2011		
Cox Communications 11th Amended	003	May 11, 2011		
Cox Communications 12th Amended	003	June 17, 2011		
Cox Communications 13th Amended	003	June 30, 2011		
Cox Communications 14th Amended	003	November 2, 2011		
Cox Communications Subtotal			***1,208,547***	***$51,122***
Cableview Communications	006	December 6, 2007	***270***	***$11***
CCO SoCal I dba Charter Communications[1]	007	November 7, 2011	***1,299,748***	***$54,979***
CCO SoCal II dba Charter Communications[2]	027	November 7, 2011	***76,705***	***$3,245***

Video Franchise Holders with Franchises Issued as of December 2, 2011	Franchise ID	Franchise Issue Date	*Total Number of Households in Video Service Area*	*Fee Assessment*
FCSC II, LLC dba Charter Communications	010	December 13, 2007		
FCSC II, LLC dba Charter Com. 1st Amended	010	February 25, 2008		
FCSC II, LLC dba Charter Com. 2nd Amended	010	June 27, 2008		
FCSC II, LLC dba Charter Com. 3rd Amended	010	November 10, 2008		
FCSC II, LLC dba Charter Com. 4th Amended	010	February 6, 2009		
FCSC II, LLC dba Charter Com. 5th Amended	010	October 30, 2009		
FCSC II, LLC dba Charter Com. 6th Amended	010	December 18, 2009		
FCSC II, LLC dba Charter Com. 7th Amended	010	February 8, 2010		
FCSC II, LLC dba Charter Com. 8th Amended	010	February 8, 2010		
FCSC II, LLC dba Charter Com. 9th Amended	010	November 8, 201		
FCSC II, LLC dba Charter Com. 10th Amended	010	February 17, 2011		
FCSC II, LLC dba Charter Communications Subtotal			***29,270***	***$1,238***
Falcon Telecable dba Charter Communications	012	December 13, 2007		
Falcon Telecable dba Charter Communications 1st Amended	012	September 6, 2011		
Falcon Telecable dba Charter Communications Subtotal			***7,921***	***$335***
Time Warner NY Cable, LLC dba Time Warner Cable	005	November 15, 2007		
TWNYC, LLC dba Time Warner Cable 1st Amended	005	July 7, 2008		
TWNYC, LLC dba Time Warner Cable 2nd Amended	005	August 4, 2008		
TWNYC, LLC dba Time Warner Cable 3rd Amended	005	March 12, 2009		
TWNYC, LLC dba Time Warner Cable 4th Amended	005	March 23, 2009		
TWNYC, LLC dba Time Warner Cable 5th Amended	005	June 18, 2009		
TWNYC, LLC dba Time Warner Cable 6th Amended	005	July 16, 2009		
TWNYC, LLC dba Time Warner Cable 7th Amended	005	September 1, 2009		
TWNYC, LLC dba Time Warner Cable 8th Amended	005	July 1, 2010		
TWNYC, LLC dba Time Warner Cable 9th Amended	005	November 16, 2010		
TWNYC, LLC dba Time Warner Cable 10th Amended	005	March 30, 2011		
TWNYC, LLC dba Time Warner Cable Subtotal[3]		November, 2011	***3,570,139***	***$151,017***
Time Warner Cable, LLC	018	December 19, 2007		
Time Warner Cable, LLC 1st Amended	018	July 7, 2008		
Time Warner Cable, LLC 2nd Amended	018	March 30,2011		
Time Warner Cable, LLC Subtotal			***492,116***	***$20,817***

Video Franchise Holders with Franchises Issued as of December 2, 2011	Franchise ID	Franchise Issue Date	*Total Number of Households in Video Service Area*	*Fee Assessment*
Time Warner Entertainment-Advance/Newhouse Partnership	019	December 19, 2007		
TWEANP dba Time Warner Cable 1st Amended	019	July 11, 2008		
TWEANP dba Time Warner Cable 2nd Amended	019	August 6, 2008		
TWEANP dba Time Warner Cable 3rd Amended	019	December 16, 2008		
TWEANP dba Time Warner Cable 4th Amended	019	December 3, 2010		
TWEANP dba Time Warner Cable Subtotal			***244,716***	***$10,351***
Time Warner Entertainment Company	020	December 19, 2007		
TWEC dba Time Warner Cable 1st Amended	020	August 6, 2008		
TWEC dba Time Warner Cable Subtotal			***3,721***	***$157***
Northland Cable Television, Inc.	015	December 14, 2007		
Northland Cable Television, Inc. 1st Amended	015	July 7, 2008		
Northland Cable Television, Inc. 2nd Amended	015	July 7, 2008		
Northland Cable Television, Inc. Subtotal			***8,001***	***$338***
Comcast	021	January 2, 2008		
Comcast 1st Amended	021	March 14, 2008		
Comcast 2nd Amended	021	April 25, 2008		
Comcast 3rd Amended	021	June 6, 2008		
Comcast 4th Amended	021	July 28, 2008		
Comcast 5th Amended	021	August 11, 2008		
Comcast 6th Amended	021	October 16, 2008		
Comcast 7th Amended	021	March 23, 2009		
Comcast 8th Amended	021	July 29, 2009		
Comcast 9th Amended	021	June 21, 2010		
Comcast 10th Amended	021	August 26, 2010		
Comcast 11th Amended	021	November 16, 2010		
Comcast 12th Amended	021	February 17, 2011		
Comcast 13th Amended	021	February 17, 2011		
Comcast 14th Amended	021	April 26, 2011		
Comcast 15th Amended	021	April 26, 2011		
Comcast 16th Amended	021	June 13, 2011		
Comcast 17th Amended	021	June 30, 2011		
Comcast 18th Amended	021	September 12, 2011		
Comcast Subtotal			***2,751,536***	***$116,390***

Video Franchise Holders with Franchises Issued as of December 2, 2011	Franchise ID	Franchise Issue Date	*Total Number of Households in Video Service Area*	*Fee Assessment*
Baldwin County Internet/DSSI Service, LLC	022	March 3, 2008	***2,891***	***$122***
Audeamus, LLC dba Sebastian	023	April 4, 2008		
Audeamus, LLC dba Sebastian 1st Amended	023	August 26, 2011		
Audeamus, LLC dba Sebastian			***6,643***	***$281***
CalTel Connections dba Calaveras Cablevision	025	May 16, 2008		
CalTel Connections dba Calaveras Cablevision 1st Amended	025	December 30, 2009		
CalTel Connections dba Calaveras Cablevision Subtotal			***3,086***	***$131***
Antilles Wireless, LLC dba Cable USA	026	June 9, 2008	***1,280***	***$54***
Astound Broadband, LLC	028	October 16, 2008		
Astound Broadband, LLC 1st Amended	028	November 9, 2009		
Astound Broadband, LLC 2nd (Reorganization)	028	January 13, 2011		
Astound Broadband, LLC 3rd Amended	028	August 17, 2011		
Astound Broadband, LLC 4th Amended	028	September 28, 2011		
Astound Broadband, LLC 5th Amended	028	October 28, 2011		
Astound Broadband, LLC Subtotal[4]			***320,599***	***$13,561***
Surewest Televideo dba Surewest Broadband	029	December 10, 2008		
Surewest Televideo dba Surewest Broadband 1st Amended	029	April 29, 2009		
Surewest Televideo dba Surewest Broadband Subtotal			***318,197***	***$13,460***
CBC Broadband Holdings, LLC dba Champion Broadband	030	December 22, 2008	***32,278***	***$1,365***
Redwood IPTV, LLC	032	August 31, 2009	***126,354***	***$5,345***
Mediacom, LLC	033	September 23, 2009	***71,380***	***$3,019***
Suddenlink Cequel III Communications I, LLC	034	November 11, 2009		
Suddenlink Cequel III Communications I, LLC 1st Amended	034	November 1, 2010		
Suddenlink Cequel III Communications I, LLC Subtotal			***7,673***	***$325***
Suddenlink NPG Cable, LLC	040	May 5, 2011		
Suddenlink NPG Cable, LLC 1st Amended	040	June 27, 2011		
Suddenlink NPG Cable, LLC Subtotal			***4,919***	***$208***
Suddenlink Cebridge Acquisition, LP	044	October 6, 2011	***187***	***$8***
Volcano Communications Company dba Volcano Vision	035	November 19, 2009		
Volcano Vision 1st Amended	035	February 11, 2011		
Volcano Communications Company dba Volcano Vision			***512***	***$22***
Greenfield Communications	036	January 19, 2010		

Greenfield Communications 1st Amended	036	May 11, 2011		
Greenfield Communications, Inc.			***6,605***	***$278***
Video Franchise Holders with Franchises Issued as of December 2, 2011	Franchise ID	Franchise Issue Date	***Total Number of Households in Video Service Area***	***Fee Assessment***
CalNeva Broadband, LLC	037	March 1, 2010	***2,375***	***$100***
Horizon Cable TV, Inc.	038	October 5, 2010		
Horizon Cable TV, Inc. 1st Amended	038	June 17, 2011		
Horizon Cable TV, Inc.			***7,492***	***$317***
Bright House Networks, LLC	039	November 1, 2010	***1,840***	***$78***
Media 3 Communications, Inc.	041	August 5, 2011	***114,147***	***$4,828***
Google Fiber California, LLC	042	August 26, 2011	***2,198***	***$93***
Sonic Telecom, LLC	043	September 16, 2011	***30,399***	***$1,286***
Total			**22,441,618**	**$949,280**

[1] American Cable Entertainment Company, LLC; Charter Communications Entertainment II, LLC; Charter Communications Properties, LLC; Falcon Cablevision, LLC; Long Beach, LLC; Marcus Cable Associates, LLC; and part of Falcon Cable Systems Company II, LP were reorganized under Charter Communications Operating (CCO) SoCal I on November 7, 2011
[2] Dalton Cablevision was reorganized under Charter Communications Operating (CCO) SoCal II in November 7, 2011
[3] CAC Exchange I, LLC; CAC Exchange II, LLC; and C-Native Exchange I, LLC were reorganized under Time Warner NY Cable under its 4th amendment
[4] Wave Broadband was reorganized under Astound Broadband on January 13, 2011

Note: We expect there will be additional amendments or franchises issued in 2012 so we expect to make up the difference between the budget and the $719 shortfall shown above.