

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Public Programs Branch

RESOLUTION T-17058
August 24, 2006

RESOLUTION

Resolution T-17058. Resolution to Resolve Materials Issues Related to Verizon California Inc.'s (U-1002-C) Permanent California High Cost Fund-B (CHCF-B) Surcredit, Pursuant to Resolution T-17009, Issued and Adopted on July 20, 2006.

SUMMARY

On October 29, 2001, Verizon California Inc. (Verizon)¹ filed Advice Letter (AL) No. 9908 to make its provisional California High Cost Fund-B (CHCF-B) surcredit permanent. On July 20, 2006, Resolution T-17009 was issued (1) approving Verizon's permanent surcredit of 3.38% to apply on all intrastate billings, except for certain services,² commencing September 1, 2006 and continuing thereafter; and (2) requiring the Commission to finalize and resolve material issues related to Verizon's permanent surcredit issues in accordance with D.98-09-039.

This resolution finalizes the material issues and orders Verizon to implement an incremental permanent surcredit of 0.71% for one year to adjust the provisional permanent CHCF-B surcredit on all of Verizon intrastate customer billings, except certain services, commencing October 1, 2006 and ending on the last day of the 12-month period. The 0.71% incremental permanent surcredit will be in addition to the 3.38% permanent surcredit adopted in Resolution T-17009.

BACKGROUND

A. Decision (D.) 96-10-066 –Rulemaking on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643; Investigation on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643 (R.95-01-020, I.95-01-021)

¹Verizon is formerly the merged GTE California Inc. and Contel Telephone Company.

² Certain services refer to residential basic service, coin-sent paid calling, debit card messages, one-way radio paging, COPT usage, contracts, ULTS access lines, installation, billing, and local calls under ULTS allowance, and directory advertising.

In D.96-10-066, the Commission established the CHCF-B program to provide a universal service subsidy to Verizon and the other incumbent local exchange carriers (ILECs)³ for providing basic local telephone service to residential customers in high-cost areas at affordable rates. The purpose of the CHCF-B program is to replace the implicit subsidies used to support universal service with an explicit funding mechanism. The CHCF-B is funded through a surcharge on all end-users of intrastate telecommunications services, except for Universal Lifeline Telephone Service (ULTS) customers, coin-sent paid calling, debit card messages, one-way paging, usage charges to COPTs, customers receiving services under existing contracts that were executed on or before September 15, 1994 and directory advertising. The CHCF-B surcharge has been in place since February 1, 1997.

To avoid double recovery of universal service support by carriers, the Commission, by D.96-10-066, requires Verizon and the other ILECs to reduce all of their rates, except for residential basic service⁴, contracts, and coin-sent paid calls, by a percentage (through a monthly surcredit to the customer's bill), that equals their anticipated monthly CHCF-B draws.

B. D.98-09-039 – Rulemaking on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643; Investigation on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643 (R.95-01-020, I.95-01-021.)

In September 1998, the Commission issued D.98-09-039 implementing the CHCF-B program established by D.96-10-066. The Commission authorized Verizon and the other ILECs,⁵ to commence their monthly draws from their accumulated CHCF-B surcharge revenues (CHCF-B draws) commencing December 15, 1998. To offset the CHCF-B draws, the Commission ordered Verizon and the other ILECs to file an AL to implement a permanent surcredit (by an equal percentage of their CHCF-B draws) beginning December 1, 1998, based on the average of the company's "**approved**" monthly claims submitted to the CHCF-B fund for the twelve-month period ending July 31, 1998. (*D. 98-09-039, Ordering Paragraph (OP) 1, p. 82.*) Once the monthly claims, on which the permanent surcredit would be based, were submitted by Verizon and that other ILECs to TD (Telecommunications Division), the CHCF-B Administrative

³ The other ILECs are AT&T (formerly Pacific Bell, then SBC), Citizens Telecommunications Company of California, and SureWest Telephone Company (formerly Roseville Telephone Company).

⁴ Residential basic exchange service is excluded from the rate reduction because the CHCF-B supports this service in high cost areas. The Commission, in D.96-10-066, held "If we were to reduce rates for basic service as well, this would widen, rather than narrow, the gap between residential rates and their costs." (*Id. at p. 208.*)

⁵ AT&T as a result of D.98-07-033, dated July 2, 1998, and subsequently SureWest Telephone Company in D.05-08-004, dated August 25, 2005, implemented permanent rate reductions, which allowed each company to true up its rate reduction with its approved fund draws from the CHCF-B program.

Committee (AC)⁶ was then charged with the duty of reviewing and approving the monthly claims. If material issues arose from the AC's review of the monthly claims, the Commission held that "the surcredit would be implemented on a provisional basis beginning December 1, 1998, and adjusted at a later date, if necessary, upon resolution of these issues." (*Id at OP 3, p. 82, emphasis added.*)

C. Resolution T-16238 – Verizon California Inc. Request to Implement a Permanent California High Cost Fund –B Surcredit in Compliance with Decision 98-09-039. By Advice Letter No. 8838, Filed on September 21, 1998, and its Supplements A and B, Filed on November 16, 1998 and November 17, 1998, Respectively. (Adopted November 19, 1998.)

In compliance with OP No. 1 of D. 98-09-039, Verizon filed AL No. 8838 to implement a surcredit on intrastate billings to customers beginning December 1, 1998. In Resolution T-16238, the Commission approved, on a provisional basis, Verizon's CHCF-B permanent surcredit of 3.16%, which was based on an estimated amount (approximately \$47.7 Million) for the period of August 1997 through July 1998. This permanent surcredit was adopted on a provisional basis because the CHCF-B AC had not formally approved any of these claims filed by Verizon. (*Id. at p. 3.*) The Commission specifically held that " . . . the implementation of the surcredit filed in Advice Letter 8838 [is] to be on a provisional basis subject to further revision by further Commission action." (*Id.*)

Specifically, Resolution T-16238 states as follows:

- The AC has not formally approved any of the CHCF-B claims filed by GTEC (Verizon.) Therefore, TD recommends that the Commission require the implementation of the surcredit be on a provisional basis, subject to revision, if necessary, by the Commission utilizing the process set forth in OP 3 of D.98-09-039. (Resolution T-16238, p. 3; *See also* Finding 3 and OP 1.)
- OP 3 of D.98-09-039 states "The CHCF-B AC shall review the CHCF-B claims submitted by Citizens, GTE/Contel (Verizon), and Roseville for the 12-month period ending July 31, 1998 and report its finding to the Director of TD. If material issues arise from the Committee's review of the CHCF-B claims, these companies' permanent surcredits shall be implemented on a provisional basis

⁶ The CHCF-B AC (formerly CHCF-B Trust AC) was previously responsible for reviewing and approving CHCF-B claims by telecommunications carriers, but this function has been transferred to the Commission effective October 1, 2001, pursuant to D.01-09-064, dated September 20, 2001, in response to Legislative mandates (SB 669 and SB 742) to transfer surcharge revenues that fund the public purpose programs associated with the advisory board into the State Treasury. The CHCF-B AC currently acts as an advisory board to advise the Commission regarding the development, implementation and administration of the program, pursuant to PU Code Section 276(a).

beginning December 1, 1998 and adjusted at a later date, if necessary, upon the resolution of these issues.”

- TD further recommends that the provisional status be effective until the Commission acts through a subsequent resolution action to establish the permanent surcredit. (Resolution T-16238, p. 4; *See Also* Finding 4 and OP 1.)
- We will adopt TD’s recommendation to require the implementation of the surcredit filed in AL 8838 to be on a provisional basis subject to further revision by further Commission action. (Resolution T-16238, p. 4; *See also* OP 1.)

D. October 4, 2001 Director of the Telecommunications Division’s Letter to Verizon

On October 4, 2001, the Director of the TD sent a letter to Verizon to notify that the CHCF-B AC had completed its review of Verizon’s monthly claims for the period February 1997 through July 1998. Specifically, TD informed Verizon that the CHCF-B AC approved an amount of \$51,078,457 for the 12-month period of August 1997 through July 1998. This amount was approximately \$3,378,457 more than Verizon’s claimed amount, which was \$47.7 million for this period.

Because the CHCF-B AC’s approved amount was greater than Verizon’s claimed amount, TD instructed Verizon to adjust its provisional permanent rate that was adopted in Resolution T-16238 with the CHCF-B AC’s approved amount of \$51,078,456.73. TD further instructed Verizon to file an AL no later than October 30, 2001 to reflect this adjustment.

In response, Verizon filed AL No. 9908 to increase its provisional surcredit rate of 3.16% to a new permanent surcredit of 3.38% on October 29, 2001.

E. Resolution T-17009 – Verizon California Inc. Request to Implement a Permanent California High Cost Fund –B Surcredit in Compliance with Decision 98-09-039. By Advice Letter No. 9908, Filed on October 29, 2001. (Adopted July 20, 2006.)

In Resolution T-17009, the Commission approved Verizon’s permanent surcredit of 3.38% to apply on all intrastate billings, except certain services on a going-forward basis. The permanent surcredit was based on the approved CHCF-B AC’s claim amount of \$51,078,457 million and the net billing base for the period ending July 1998 (consistent with the basis period indicated in Commission D.98-09-039).

However, in Resolution T-17009, the Commission left unresolved the calculation and application of an incremental permanent surcredit amount (additional offset to Verizon's customers) resulting from the difference between the CHCF-B AC's approved amount and estimated claim amount for the period December 1, 1998 (implementation date of the provisional permanent surcredit) through September 1, 2006 (implementation date of the permanent surcredit). In OP 6 of Resolution T-17009, the Commission stated "In the near future, the Commission shall consider and order final approval and adjustments of Verizon's permanent surcredit in accordance with D.98-09-039." In accordance with this OP, this resolution addresses the calculation and application of Verizon's permanent surcredit adjustment.

F. D.02-04-059 – Order Instituting Rulemaking into Implementation of Senate Bill 669 as it Affects California High Cost Fund B and Other Public Purpose Programs (R.01-08-022).

In D.02-04-059, the Commission adopted the 3-month commercial paper rate issued by financial institutions (available at the Federal Reserve Board website) as the uniform interest rate to apply to all late payments for reimbursements and carrier claims, beginning with payments processed in the first payment cycle, which was May 1, 2002.

NOTICE/PROTESTS of ALs

The notice of Verizon's AL No. 9908 was published in the Commission Daily Calendar on October 30, 2001. Verizon indicated that they mailed a copy of the AL to adjacent utilities and/or interested parties as requested. TD did not receive any protests to this AL.

DISCUSSION

In Resolution T-17009, the Commission approved Verizon's request in AL No. 9908 to make its provisional permanent surcredit permanent and ordered Verizon to implement a permanent surcredit of 3.38% on a going-forward basis, commencing September 1, 2006 and continuing thereafter.

In addition, the Commission held that it would resolve the material issue of dispute related to Verizon's application of a surcredit rate for the period between December 1, 1998 and September 1, 2006 as follows:

"In the near future, the Commission shall consider and order final approval and adjustments of Verizon's permanent surcredit in accordance with D.98-09-039." (OP 6, Resolution T-17009).

In this resolution, the Commission now finally and permanently resolves Verizon's provisional permanent surcredit adjustment in compliance with Decision 98-09-039 and OP 6 of Resolution T-17009.

In D.98-09-039, the Commission set forth the rules and process for the adjustment of Verizon's permanent surcredit. Specifically, in OP 3 of the decision, the Commission ordered:

"The CHCF-B Administrative Committee shall review the CHCF-B claims submitted by Citizens, GTE, Contel and Roseville for the 12-month period ending July 31, 1998 and report its findings to the Director of the Telecommunications Division. If material issues arise from the CHCF-B AC's review of the CHCF-B claims, these companies' permanent surcredits shall be implemented on a provisional basis beginning December 1, 1998 and adjusted at a later date, if necessary, upon the resolution of these issues."

In the decision, the Commission also held that Verizon's permanent surcredit must be based on "actual, approved" claim amount from August 1997 through July 1998 (the subject period).

In accordance with D.98-09-039, the CHCF-B AC reviewed Verizon's claims and determined that the approved amount is \$51,078,458 (or \$4,236,538 per month) for the subject period. Verizon's estimated claimed amount for the same period is \$47.7 million. Hence, there is a significant difference of approximately \$3,378,457 per year, between the CHCF-B AC's approved amount and Verizon's claimed amount. The net effect of this disparity is that Verizon's customers have been receiving a smaller surcredit than they should have. Failure to adjust this difference would result in a significant harm to ratepayers and would also be inconsistent with the Commission decisions on how the CHCF-B funds are to be utilized and calculated. Thus, it is necessary to offset that difference of \$3,378,457 per year for several years to Verizon's customers in the form of a surcredit to resolve the material issues set forth in Resolution T-17009.

To determine the amount that Verizon should offset to its customers, it is equitable and reasonable to limit the basis for the incremental permanent surcredit calculation to three years⁷. Accordingly, the three-year difference, plus interest⁸, amounting to

⁷ Instead of using the total number of years in which the provisional permanent surcredit should have been implemented (December 1, 1998 through the implementation date of Resolution T-17009, which is September 1, 2006), we limit the incremental permanent surcredit calculation to three years to balance ratepayer and shareholder interests.

⁸ It is reasonable to include interest onto the difference because this amount has been retained by Verizon for three years which should have accrued interest in a financial institution. The interest was based on the 3-month commercial paper rate issued by

\$9,117,610.72 was divided by Verizon's actual net billing base for the 12-month period ending December 2005. The resulting incremental permanent surcredit is 0.71%. Verizon's billing base has decreased resulting in a billing base that has significant impact in the calculation of the appropriate draw from the CHCF-B and total surcredit for their ratepayers.

Therefore, TD recommends that the Commission order Verizon to implement an incremental permanent surcredit of 0.71% to resolve material issues of dispute. The surcredit will apply on all intrastate billings, except certain services, commencing October 1, 2006 and ending on the last day of the 12-month implementation period. The 0.71% incremental permanent surcredit will be in addition to the 3.38% permanent surcredit approved in Resolution T-17009, which becomes effective on September 1, 2006 and continuing thereafter.

In addition, TD recommends that the Commission order Verizon, within five (5) business days from the effective date of this resolution to (1) file a compliance advice letter to address and adjust the material issues set forth in Resolution T-17009, by reflecting an incremental permanent surcredit of 0.71% for one year to apply on all intrastate billings, except certain services, commencing October 1, 2006 and ending on the last day of the 12-month implementation period; and (2) provide to the Director of TD for review and approval, a copy of the customer notice that will be in the free-form section of the customer bill, explaining that the 0.71% incremental permanent surcredit is in addition to the permanent surcredit of 3.38% for one year (pursuant to Resolution T-17009), commencing October 1, 2006 and ending on the last day of the 12-month implementation period.

The Commission believes that TD's recommendations, as discussed in this resolution, are appropriate, reasonable and consistent with prior Commission decisions and resolutions.

COMMENTS

In compliance with PU Code Section 311(g)(1), a copy of the Notice of Availability letter of the draft resolution was e-mailed on July 25, 2006 to parties that informed TD of their e-mail address in order to continue to be on the service list of R.95-01-020/I.95-01-021, AT&T, Citizens Telecommunications of California, SureWest Telephone Company, Cox California Telecom, LLC, and CHCF-B AC, informing parties that its draft resolution was available for public viewing and comments at the Commission's website at:

<http://www.cpuc.ca.gov/static/telco/public+programs/index.htm>.

In addition, the TD informed these parties of the availability of the conformed

financial institutions (available at the Federal Reserve Board website) as the uniform interest rate to apply to all late payments for reimbursements and carrier claims, pursuant to D.02-04-059.

resolution on the website.

Verizon's Comments

On August 9, 2006, Verizon filed comments on the draft resolution and made the following points in its comments. The company states that the adjustment of the provisional permanent surcredit:

1. Violates Commission D.98-09-039;
2. Constitutes retroactive ratemaking;
3. Violates the filed rate doctrine; and
4. Violates due process and principle of equal treatment

Decision 98-09-039

Verizon states that D.98-09-039 reverses prior ruling requiring the company and other carriers to establish memorandum accounts to track rate reductions. Specifically, Verizon points to OP 15 of D.98-09-039 which states:

"shall not true-up their permanent surcredits with their actual draws from the CHCF-B draws. These companies are relieved of their obligations to implement the true-up memorandum accounts required by Ordering Paragraph 8.f of D.96-10-066."

Retroactive Ratemaking

Verizon asserts that under PU Code Section 728, the Commission's authority to establish rates is "prospective only." Additionally, to account for possible delays that occur in setting rates, the Commission uses memorandum accounts to determine rates that are not effective at the beginning of the test year. For the provisional permanent surcredit discussed in this resolution, however, the Commission, in D.98-09-039, rescinded its initial imposition of the memorandum account requirement originally set forth in D.96-10-066.

The Filed Rate Doctrine

Verizon states that Resolution T-16238 ordered the company to (1) implement the 3.16% provisional surcredit; and (2) reflect the 3.16% surcredit in its tariff sheets, "subject to revision by further Commission order." Verizon believes that "subject to revision" could only mean that the surcredit can only be adjusted prospectively and not

retroactively since these tariff sheets have the force and effect of law and therefore binding.

Due Process and Equal Treatment

Verizon indicates that they did not receive any advance notice of the potential refund liability. The company further states that there are no Commission decisions and/or resolutions that notify Verizon that the provisional permanent surcredit is subject to retroactive refund. Finally, Verizon believes that only Citizens and Verizon are subject to retroactive adjustments of their CHCF-B draw.

TD's Response

TD has reviewed Verizon's opening comments and disagree with its assertion that the Commission violates its prior decisions and therefore it does not have any authority upon which to base the creation of the incremental permanent surcredit.

Decision 98-09-039

OP 1 of D.98-09-039 ordered Verizon to file an AL to implement a permanent surcredit commencing December 1, 1998 that was supposed to be based on 12 months of actual, approved claims. However, since reviewing the 12-months of claims was not a quick and easy task, the Commission also adopted OP 3 of Decision 98-09-039, which states, "If material issues arise from the Committee's review of the CHCF-B claims, these companies' permanent surcredits shall be implemented on a provisional basis beginning December 1, 1998, and adjusted at a later date, if necessary, upon the resolution of these issues." (Emphasis added.)

To comply with OP 1 of D.98-09-039, Verizon filed AL No. 8838, but the permanent surcredit was based on the estimated, rather than the approved CHCF-B claim amount for the period ending July 1998. Thus, the Commission, in Resolution T-16238, approved Verizon's request to implement a permanent surcredit on an interim basis, subject to further revision by the Commission, pursuant to OP 3 of D.98-09-039. Further, OP 15 of D.98-09-039 states "... shall not true up their permanent surcredits with their **actual** draws from the CHCF-B". (Emphasis added.) However, the permanent surcredit was not based upon "actual" draws but "estimated" draws.

The intent of OP 3 of D.98-09-039 is to true-up the provisional permanent surcredit with the resolution of any issues associated with the 12 months of CHCF-B claims for the period ending July 1998. Thus, we believe that the difference between the CHCF-B estimated amount and the truncated previous three-year calculation based on the implementation date of this resolution, including interest, totaling approximately \$9.1 million, is material enough to warrant an adjustment to CHCF-B surcredits.

Retroactive Ratemaking

The adjustment ordered in this resolution is not retroactive as the Commission clearly intended to adjust the provisional CHCF-B amount at a later date in D.98-09-039.

The California Supreme Court noted that "The prohibition only applies in the situation when the Commission is "promulgating 'general rates'." (Southern California Edison Company v. Pub. Utilities Com. (1978) 20 Cal.3d 813, 816 cited in D.03-02-035, p. 12; See also, California Manufacturers Association v. Public Utilities Commission, 24 Cal. 3d 251, 261 (1979)"). Furthermore, "Before there can be retroactive ratemaking there must be at least be ratemaking." (Id. at 817.) In this case, no rates are being changed as a result of the implementation of the incremental surcredit. The surcredit adjustment at issue here will neither increase nor decrease the utilities' previously adopted rates. Rather, the purpose of the incremental surcredit is to adjust/true-up the "estimated" CHCF-B claims, which the provisional/interim surcredit is based on upon, with the actual, approved CHCF-B claims for prior years. This is necessary in order to effectuate the Commission's directives set forth in its prior decisions and resolutions.

Since December 1, 1998 to present date, Verizon has implemented the surcredits on a provisional basis because the surcredits are based on their "estimated" claims, and not "actual, approved" claims. In 2001, AC completed its review of the companies' claims and determined that the "actual, approved" amounts were greater than the companies' claimed amounts for the subject period (August 1997 to July 1998). In other words, the companies were drawing more money from the CHCF-B fund than they were offsetting through the provisional surcredits. Specifically, the difference between the approved and the claimed amounts was \$3,378,457 per year for Verizon. In D.96-10-066 and D.98-09-039, the Commission emphasized that the surcredits that are equal to the monthly draws are necessary in order to prevent the LECs from receiving a windfall as a result of both remittances from the CHCF-B fund and the CHCF-B surcharge income. Moreover, it would be contrary to the Commission's intent and unfair to the customers if Verizon is not required to adjust/reconcile their estimated claims, which their provisional surcredits are based upon, with the Committee's actual, approved claims.

Furthermore, the ordering of the incremental surcredit is consistent with and supports the Commission's rationale behind the CHCF-B funding mechanism. In D.96-10-066, the Commission directed the large LECs to reduce their rates to ensure that they did not reap a windfall from the CHCF-B fund as follows:

Concurrent with the effective date of the fund, the five large and mid-size LECs affected by the CHCF-B shall reduce all of their rates, except for residential basic service and existing contracts, by an equal percentage. This overall reduction shall equal the anticipated monthly draw the incumbent

LECs anticipate receiving from the fund. The rate reduction shall be accomplished by a monthly surcredit to each customer's bill through an advice letter filing. (68 CPUC 2d at 630.)

The Filed Rate Doctrine

The proposed adjustment does not violate the filed rate doctrine. The filed rate doctrine states that the relationship between a utility and the user of a service is governed by the tariff the utility has filed with the appropriate administrative agency (regulatory authority). In interpreting tariffs, this Commission has held that the tariff language must be construed as a whole, and should be given a fair and reasonable construction that avoids absurd results or would render some part of the tariff a nullity. (See D.98-12-086, 1998 Cal. PUC LEXIS 1014 **19-20.)

The incremental CHCF-B surcredit ordered in the proposed resolution does not change previously approved rates. Rather, the purpose of the incremental surcredit is to finally revise/adjust the provisional surcredit that is currently in place into a permanent surcredit based on the actual, approved claim amounts as ordered by the Commission in D.98-09-039 and Resolution T-16238.

Furthermore, in Resolution T-16238, the Commission held that the tariff sheets filed in response to the surcredit adopted in this resolution (which is based on "estimated" claims and on a provisional basis) would be temporary. Resolution T-16238 states:

"Tariff Sheets

The tariff sheets filed by Advice Letter 8838 provide for the surcredit to be on a permanent basis. Providing for the surcredit to be on a provisional basis as adopted in this resolution will require GTEC (Verizon) to amend the tariff sheets filed by Advice Letter 8838 to specify that the surcredit is provisional and subject to revision by further action of the Commission. We will therefore require GTEC (Verizon) to so amend the tariff sheets by Advice Letter 8838 through the filing of a supplemental to Advice Letter 8838." (Resolution T-16238, p.4.)

Moreover, there is no violation of the filed rate doctrine.

Due Process

Verizon's due process argument also lacks merit. Verizon has had ample notice and opportunity that the incremental surcredit adjustment was going to be addressed and ordered by the Commission in the future as follows:

- D.98-09-039 – the Commission expressly held that if material issues arose from the AC's review of the CHCF-B claims, the permanent surcredits would be implemented on a provisional basis beginning on December 1, 1998, and adjusted at a later date, if necessary, upon the resolution of these issues.
- Resolution T-16238 – Because the AC (the Committee) had not formally approved any of the CHCF-B claims filed by GTEC (Verizon.), TD recommended that the Commission require the implementation of the surcredit be on a provisional basis, subject to revision, if necessary, by the Commission utilizing the process set forth in OP 3 of D.98-09-039.
- Resolution T-16238 - TD further recommended that the provisional status be effective until the Commission acts through a subsequent resolution action to establish the permanent surcredit. (p. 4; *See Also* Finding 4 and OP 1.)
- Resolution T-16238 – The Commission adopted TD's recommendation of requiring the implementation of the surcredit filed in AL No. 8838 to be on a provisional basis subject to further revision by further Commission action. (p. 4; *See also* OP 1.)
- Resolution T-17009 - The Commission held that "In the near future, the Commission shall consider and order final approval and adjustments of Verizon's permanent surcredit in accordance with D.98-09-039." (Resolution T-17009, OP 6)

Except as modified herein or discussed above, TD rejects all other comments filed by Verizon.

FINDINGS

1. In Resolution T-17009, issued and adopted on July 20, 2006, the Commission approved Verizon California Inc.'s request in Advice Letter (AL) No. 9908 to implement a California High Cost Fund B (CHCF-B) permanent surcredit of 3.38%

to apply on Verizon intrastate billings, except for certain services (residential basic service, coin-sent paid calling, debit card messages, one-way radio paging, COPT usage, contracts, ULTS access lines, installation, billing, and local calls under ULTS allowance, and directory advertising), on a going-forward basis commencing on September 1, 2006 and continuing thereafter.

2. In this resolution, the Commission now finally and permanently resolves Verizon's provisional permanent surcredit adjustment in compliance with Decision 98-09-039 and Ordering Paragraph (OP) 6 of Resolution T-17009.
3. OP 6 of Resolution T-17009 stated "In the near future, the Commission shall consider and order final approval and adjustments of Citizens' permanent surcredit in accordance with D.98-09-039."
4. To comply with OP 6 of Resolution T-17009 and D.98-09-039, this resolution is being issued to resolve the material issues related to Verizon's permanent surcredit resulting from the difference of approximately \$3,378,457 between the CHCF-B AC's approved claim amount and Verizon's estimated claim amount (basis for the provisional permanent surcredit calculation).
5. In OP 3 of D.98-09-039, the Commission provided rules and authority for the adjustment of Verizon's permanent surcredit. The Commission also held that if any material issues arose from the CHCF-B AC's review of the CHCF-B claims, the provisional permanent surcredit would be adjusted at a later date.
6. The CHCF-B AC's approved claim amount is \$51,078,457 and Verizon's estimated claim amount is \$47.7 million for the 12-month period ending July 1998.
7. The approximately \$3,378,457 per year difference for several years is a material amount, which needs to be adjusted. The net effect of this disparity is that Verizon's customers have been receiving a smaller surcredit than they should have.
8. Failure to adjust the \$3,378,457 per year difference would result in a significant harm to ratepayers and would also be inconsistent with the Commission decisions on how the CHCF-B funds are to be utilized and calculated. Thus, it is necessary to offset that difference of \$3,378,457 per year for several years to Verizon's customers in the form of a surcredit to resolve the material issues set forth in Resolution T-17009.
9. OP 7 of Commission D.02-04-059 adopted the three-month commercial paper rate issued by financial institutions (available at Federal Reserve Board website) as the uniform interest rate applicable to late payment of reimbursement and carrier claims, beginning with payments processed in the first payment cycle (which is May 1, 2002).

10. To determine the amount that Verizon should offset to its customers, it is equitable and reasonable to limit the basis for the incremental permanent surcredit calculation to three years.
11. The three-year difference, plus interest, amounting to \$9,117,610.72 was divided by Verizon's actual net billing base for the 12-month period ending December 2005. The resulting incremental permanent surcredit is 0.71%.
12. Verizon should implement an incremental permanent surcredit of 0.71% to resolve material issues of dispute. The surcredit will apply on all intrastate billings, except for certain services, commencing October 1, 2006 and ending on the last day of the 12-month implementation period.
13. The 0.71% incremental permanent surcredit will be in addition to the 3.38% permanent surcredit approved in Resolution T-17009, which becomes effective on September 1, 2006 and continuing thereafter.
14. Within five (5) business days of the effective date of this resolution, Verizon should be required to file a compliance advice letter to address and adjust the material issues set forth in Resolution T-17009, by reflecting (1) an incremental permanent surcredit of 0.71% for one year to apply on all intrastate billings, except for certain services commencing October 1, 2006 and ending on the last day of the 12-month implementation period; and (2) the incremental permanent surcredit of 0.71% is in addition to the permanent surcredit of 3.38% adopted in Resolution T-17009.
15. Within five (5) business days of the effective date of this resolution, Verizon should provide to the Director of TD for review and approval, a copy of the customer notice that will be in the free-form section of the customer bill, explaining that the 0.71% incremental permanent surcredit is in addition to the permanent surcredit of 3.38% for one year (pursuant to Resolution T-17009), commencing October 1, 2006 and ending on the last day of the 12-month implementation period.
16. On August 9, 2006, Verizon filed comments on this resolution.
17. TD addressed Verizon's comments in this resolution. Those comments not addressed in this resolution are denied.
18. The recommendations, as stated in this Resolution, are reasonable and appropriate, and should be adopted.

THEREFORE, IT IS ORDERED that:

1. Verizon shall implement an incremental permanent surcredit of 0.71% to resolve material issues of dispute. The surcredit shall apply on all intrastate billings, except for certain services (residential basic service, coin-sent paid calling, debit card messages, one-way radio paging, COPT usage, contracts, ULTS access lines, installation, billing, and local calls under ULTS allowance, and directory advertising), commencing October 1, 2006 and ending on the last day of the 12-month implementation period.
2. The 0.71% incremental permanent surcredit will be in addition to the 3.38% permanent surcredit approved in Resolution T-17009, which becomes effective on September 1, 2006 and continuing thereafter.
3. Within five (5) business days of the effective date of this resolution, Verizon shall file a compliance advice letter to address and adjust the material issues set forth in Resolution T-17009, by reflecting (1) an incremental permanent surcredit of 0.71% for one year to apply on all intrastate billings, except residential basic service, contract services, and ULTS commencing October 1, 2006 and ending on the last day of the 12-month implementation period; and (2) the incremental permanent surcredit of 0.71% is in addition to the permanent surcredit of 3.38% adopted in Resolution T-17009.
4. Within five (5) business days of the effective date of this resolution, Verizon shall provide to the Director of the Telecommunications Division for review and approval, a copy of the customer notice that will be in the free-form section of the customer bill, explaining that the 0.71% incremental permanent surcredit is in addition to the permanent surcredit of 3.38% for one year (pursuant to Resolution T-17009), commencing October 1, 2006 and ending on the last day of the 12-month implementation period.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 24, 2006. The following Commissioners approved it:

/s/ STEVE LARSON

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners