

Date of Issuance: April 17, 2009

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Policy & Decision Analysis Branch**

**RESOLUTION T-17198
April 16, 2009**

R E S O L U T I O N

Resolution T-17198. ADOPTING USER FEE TO IMPLEMENT
DIVCA FOR FISCAL YEAR 2008-09.

Summary

This Resolution sets the user fee for the fiscal year 2008-2009 to be paid by each video franchise holder at \$0.0448 per household in its video franchise territory. 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) (AB 2987, Ch. 700, Stats. 2006) was signed into law on September 29, 2006, creating for the first time a process for the issuance of state video franchises in California. On March 1, 2007, the Commission issued D. 07-03-014 (DIVCA Decision)¹, implementing DIVCA, and began accepting video franchising applications

¹ Decision Adopting a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006, in Rulemaking for Adoption of a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006 (D. 07-03-014, March 3, 2007).

immediately thereafter. To date, the Commission has issued sixty-eight video franchises including amendments.

AB2987 requires the Commission to collect user fees from all state-issued video franchise holders annually.² The total amount of fees collected is to equal the amount authorized in the Commission budget for DIVCA implementation. For the 2008-2009 fiscal year, \$950,000 was authorized to implement the state video franchise program.³ The DIVCA Decision provides that the user fee for Fiscal Year 2008-09 for each video franchisee is 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.⁴ The user fee was to be calculated based on the revenue reported for calendar year 2007.

Decision 09-04-011 modified D. 07-03-014 to continue using the current fee determination process through Fiscal Year 2012-2013. As a result, the fee will be based on a pro-rata share of households in each franchise holder's video service territory, rather than on the revenue booked by a franchise holder.

Discussion

Pursuant to D.09-04-011, this Resolution sets the user fee due per household in a video franchise holders' service area.

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, 2009 are required to pay the user fee for the full Fiscal Year 2008-09. Video franchise holders with franchises issued on or before the date of this Resolution must pay the user fees for Fiscal Year 2008-09 before May 31, 2009. Holders of franchises granted after the date of the Resolution shall pay

²Public Utilities Code Section 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)....

³ Decision 07-03-014, p. 115.

⁴ Decision 07-03-014, pp. 122-123

the fee amount to the Commission within 60 days after the issuance of their franchise.⁵

The total number of households that exist in the franchise territories of all franchise holders as of January 2, 2009 is 21,197,570. In order to generate the \$950,000 authorized for the Commission's Fiscal Year 2008-2009 DIVCA-related budget, the amount due per household is \$0.0448.

Appendix A lists each of the franchise holders as of January 2, 2009, the number of households in their service area, and their total user fee for the 2008-2009 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 March 17, 2009.

The Communications Division did not receive comments from parties of record in R06-10-0005.

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 user fee.
2. The user fee for fiscal year 2008-2009 is to be calculated based on each holder's pro-rata share of households in franchised video territories.
3. User 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 January 2, 2009 is 21,197,570.

⁵ The dates in this paragraph have been appropriately adjusted from those contained in D. 07-03-014 at pp. 124-125 to reflect the actual date of this Resolution.

5. The Commission's authorized DIVCA-related budget for the fiscal year 2008-2009 is \$950,000.
6. A user fee of .0448 per household is reasonably calculated to collect an amount equal to its DIVCA-related budget for the 2008-2009 fiscal year.
7. A schedule of user fees for franchises issued by January 2, 2009 is attached as Appendix A.
8. The Commission will send fee statements to existing holders of state video franchisees upon approval of this Resolution.

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 May 31, 2009.
2. Holders of state video franchises granted after the date of this Resolution shall remit their user fee payment to the Commission within 60 days after the issuance of their franchise.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on April 16, 2009. The following Commissioners approved it:

/s/ Paul Clanon

PAUL CLANON

Executive Director

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners

Appendix A– Fiscal Year 2008-2009 User Fee Assessment Based on the Number of Households in Video Franchise Area

Video Franchise Holders with Franchises Issued as of January 2, 2009	Franchise ID	Franchise Issue Date	Total Number of Households in Video Service Area	User Fee Assessment
Verizon California Subtotal			1,938,866	\$86,861.20
Verizon California	0001	March 8, 2007		
Verizon California 1st Amended	0001	December 19, 2007		
AT & T California	0002	March 30, 2007	9,439,085	\$422,871.01
Cox Communications Subtotal			358,464	\$16,059.19
Cox Communications	0003	April 27, 2007		
Cox Communications 1st Amended	0003	January 2, 2008		
Cox Communications 2nd Amended	0003	May 2, 2008		
Wave Broadband	0004	December 7, 2007	25,053	\$1,122.37
Cableview Communications	0006	December 6, 2007	3,832	\$171.67
Charter - American Cable Entertainment Company	0007	December 13, 2007	63,809	\$2,858.64
Charter - Charter Communications Entertainment II Subtotal			455,626	\$20,412.04
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		
Charter - Charter Communications Properties II LLC Subtotal			54,750	\$2,452.80
Charter Communications Properties II LLC	0009	December 13, 2007		
Charter Communications Properties 1st Amended	0009	November 10, 2008		
Charter - Falcon Cable Systems Company II Subtotal			346,450	\$15,520.96
Falcon Cable Systems Company II	0010	December 13, 2007		
Falcon Cable Systems Company II 1st Amended	0010	February 25, 2008		
Falcon Cable Systems 2nd Amended	0010	June 27, 2008		
Falcon Cable Systems 3rd Amended	0010	November 10, 2008		
Charter - Falcon Cablevision Subtotal			235,637	\$10,556.54
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		

Charter - Falcon Telecable	0012	December 13, 2007	7,987	\$357.82
Charter - Long Beach Subtotal			163,057	\$7,304.95
Long Beach	0013	December 13, 2007		
Long Beach 1st Amended	0013	August 11, 2008		
Charter - Marcus Cable Subtotal			232,401	\$10,411.56
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		
Charter - Dalton Cablevision	0027	August 11, 2008	50,726	\$2,272.52
TWC - Time Warner NY Cable LLC Subtotal			726,213	\$32,534.34
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		
TWC - CAC Exchange I LLC Subtotal			2,668,037	\$119,528.06
CAC Exchange I LLC	0016	December 19, 2007		
CAC Exchange I, LLC 1st Amended	0016	February 29, 2008		
CAC Exchange I, LLC 2nd Amended	0016	May 29, 2008		
CAC Exchange I 3rd Amended	0016	July 7, 2008		
CAC Exchange I 4th Amended	0016	September 22, 2008		
TWC - C Native Exchange I LLC Subtotal			702,381	\$31,466.67
C Native Exchange I LLC	0017	December 20, 2007		
C Native Exchange I 1st Amended	0017	May 29, 2008		
C Native Exchange I 2nd Amended	0017	July 11, 2008		
TWC - Time Warner Cable LLC Subtotal			355,942	\$15,946.20
Time Warner Cable LLC	0018	December 19, 2007		
Time Warner Cable 1st Amended	0018	July 7, 2008		
TWC - TWEAN Subtotal			307,996	\$13,798.22
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 19, 2008		
TWC - Time Warner Entertainment Properties Subtotal			13,464	\$603.19
Time Warner Entertainment Properties	0020	December 19, 2007		
Time Warner Entertainment Properties 1st Amended	0020	August 6, 2008		
TWC - CAC Exchange II, LLC Subtotal			82,309	\$3,687.44
CAC Exchange II, LLC	0024	May 15, 2008		

CAC Exchange II 1st Amended	0024	July 28, 2008		
Northland Cable TV Inc. Subtotal			13,620	\$610.18
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		
Comcast Subtotal			2,448,475	\$109,691.68
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		
Baldwin County Internet/DSSI Service, LLC	0022	March 3, 2008	2,015	\$90.27
Audeamus, LLC dba Sebastian	0023	April 4, 2008	7,615	\$341.15
CalTel Connections dba Calaveras Cablevision	0025	May 16, 2008	3,294	\$147.57
Antilles Wireless LLC dba Cable USA	0026	June 9, 2008	3,182	\$142.55
Astound Broadband	0028	October 16, 2008	96,635	\$4,329.25
Surewest Broadband	0029	December 10, 2008	344,135	\$15,417.25
Champion Broadband	0030	December 22, 2008	46,514	\$2,083.83
Total			21,197,570	\$949,651.14

Note: For each parent company, households in duplicate census tracts within the same legal entity and across legal entities were counted once.