

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Broadband, Video and Market Branch**

**RESOLUTION T-17688
March 12, 2020**

R E S O L U T I O N

Resolution T-17688 Adopting annual fee to implement the Digital Infrastructure and Video Competition Act (DIVCA) for Fiscal Year 2019-2020.

SUMMARY

This Resolution sets the annual fee for the Fiscal Year 2019-2020 to be paid by each state video franchise holder. This fee will generate revenue equal to the Commission's authorized budget for implementation of 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 franchise applications immediately thereafter. As of December 31, 2019, the Commission has issued a total of 56 video franchises and 213 amendments.³

¹ Cal. Pub. Util. Code, Division 2.5, The Digital Infrastructure and Video Competition Act of 2006 (DIVCA) (Cal. Pub. Util. Code §§ 5800 et seq.).

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* [D. 07- 03-014] (2007).

³ Amendments to existing video franchises "reflect changes to the franchise service area." (CPUC, General Order 169, VI, C.)

DIVCA requires the Commission to collect annual fees from all state video franchise holders.⁴ The total amount of fees collected is to equal the amount authorized in the Commission budget for DIVCA implementation in D.07-03-014. For the 2019-2020 Fiscal Year, \$950,000 was authorized to implement the state video franchise program.⁵ The DIVCA Decision provides that the annual fee for each state video franchisee, after the initial year, is to be calculated based on the percentage of all state video franchise holders' gross video revenue that is attributable to an individual franchisee.⁶ The fee is to be calculated based on the revenue reported for the prior calendar year. Accordingly, the fees for the 2019-2020 Fiscal Year established by this Resolution are based on the gross video revenue reported by each franchise holder for calendar year 2018.

DISCUSSION

This Resolution sets the annual fee for FY 2019-2020 consistent with the DIVCA Decision.

In order to generate the \$950,000 authorized for the Commission's Fiscal Year 2019-2020 DIVCA-related budget, the amount due from each franchise holder is based on a pro-rata share of gross video revenue from all state-issued franchisees, in accordance with the DIVCA Decision. For calendar year 2018, the time period used to apportion fees, total reported gross video revenue was approximately \$6.5 billion (\$6,467,152,101), 0.11% (-\$647,345) lower than in 2017. Consequently, the total DIVCA-related budget of \$950,000 amounts to 0.01468962% of the total video revenue in the state,⁷ or 0.01468962 cents per dollar of gross video revenue received by each franchise holder.⁸

⁴ Cal. Pub. Util. Code § 441 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)...."

⁵ Decision 07-03-014, *mimeo*, p. 115.

⁶ Decision 07-03-014, *mimeo*, pp. 122-123.

⁷ The computation supporting this is: $\$0.0001468815 \times \$6,467,799,446 = \$950,000$.

⁸ By way of comparison, for the last fiscal year, the DIVCA-related budget required a surcharge equal to 0.0147022 cents per dollar.

Since an individual state video franchise holder's fee will be directly related to its gross video revenue, we cannot disclose the annual fee of any individual state video franchise holder.⁹

The Commission will send all state video franchise holders a confidential fee statement after adoption of this Resolution. State video franchise holders with franchises issued any time on or prior to June 30, 2020 are required to pay the annual fee for the full Fiscal Year 2019-2020. State video franchise holders with franchises issued on or before the date of this Resolution must pay their annual fees for Fiscal Year 2019-2020 before April 30, 2020. Holders of state video 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, 2020, whichever is earlier.

SAFETY CONSIDERATIONS

State video franchise holders play an important role in public safety by disseminating emergency information to viewers by participating in the Emergency Alert Program, by providing IP-based services that will accommodate enhanced 911 services, by supporting tele-health capabilities during emergencies, and by providing diverse facilities to improve survivability of the State's communications capability during and after a catastrophic or other emergency event

COMMENTS

In compliance with Cal. Pub.Util. Code § 311 (g), a Notice of Availability was e-mailed on February 7, 2020 to state video franchise holders and other interested parties, informing these parties that this draft Resolution is available at the Commission's website at <http://www.cpuc.ca.gov/PUC/documents/> and is available for public comments.

In addition, the Communications Division (CD) will inform these parties of the subsequent availability of the conformed resolution, when adopted by the Commission, at the Commission's website as indicated above.

⁹ Cal. Pub. Util. Code § 5960 (d) states: "All information submitted to the commission and reported by the commission pursuant to this section shall be disclosed to the public only as provided for pursuant to Section 583. No individually identifiable customer or subscriber information shall be subject to public disclosure."

FINDINGS

1. The Digital Infrastructure and Video Competition Act requires the Commission to calculate, and state video franchise holders to pay, an annual fee.
2. The annual fee for Fiscal Year 2019-2020 is to be calculated based on each state video franchise holder's pro-rata share of total gross video revenue for the calendar year 2018, in accordance with D.07-03-014.
3. Total gross video revenue in calendar year 2018 was \$6,467,152,101.
4. The Commission's authorized DIVCA-related budget for the Fiscal Year 2019-2020 is \$950,000.
5. Fees in the aggregate are to equal the Commission's authorized budget for implementation of DIVCA requirements.
6. This year's annual fee amounts to 0.01468962% of each provider's gross California video revenues, or 0.01468962 cents per dollar of gross video revenue received by each franchise holder.
7. Due to the confidentiality of individual state video franchise holders' video revenue, this Resolution does not disclose fees paid by individual holders.
8. The Commission will send confidential fee statements to existing state video franchise holders, upon approval of this Resolution.
9. All state video franchise holders and other interested parties were provided with notice of this Resolution in accordance with Cal. Pub. Util. Code § 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 California Public Utilities Commission the amount indicated in their fee statements by April 30, 2020.
2. Holders of state video franchises granted after the date of this Resolution shall remit their fee payment to the California Public Utilities Commission within 60 days after the issuance of its franchise, or June 30, 2020, whichever is earlier.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on _____.

ALICE STEBBINS
Executive Director