**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

|  |  |
| --- | --- |
| **Communications Division** | RESOLUTION T-17783 |
| Broadband, Video and Market Branch | **May 18, 2023** |

**R** **E** **S** **O** **L** **U** **T** **I** **O** **N**

**Resolution T-17783** Adopting Annual Fee to Implement the Digital Infrastructure and Video Competition Act (DIVCA) for Fiscal Year
2022-2023.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

### SUMMARY

This Resolution sets the annual fee for the Fiscal Year 2022-2023 to be paid by each state video franchise (SVF) holder. This fee will generate revenue equal to the California Public Utilities 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]](#footnote-2) On March 1, 2007, the California Public Utilities Commission (Commission) issued Decision (D.) 07-03-014 (DIVCA Decision),[[2]](#footnote-3) implementing DIVCA, and began accepting video franchise applications immediately thereafter. As of December 31, 2022, the Commission has issued a total of 59 video franchises and 238 amendments.[[3]](#footnote-4) There are currently 27 video franchise holders[[4]](#footnote-5) in the State of California.

DIVCA requires the Commission to collect annual fees from all state video franchise holders.[[5]](#footnote-6) The total amount of fees collected must equal the amount authorized in the Commission’s budget for DIVCA implementation in D.07-03-014. Although the budget for DIVCA implementation has historically been $950,000, we authorize, for the

2022-2023 Fiscal Year (FY), about $1.6 million (rounded up from $1,588,661) to implement the state video franchise program.

The DIVCA Decision provides that the annual fee for each state video franchisee, 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]](#footnote-7) The fee is to be calculated based on the revenue reported for the prior calendar year. Accordingly, the fees for the
2022-2023 Fiscal Year established by this Resolution are based on the gross video revenue reported by each franchise holder for calendar year 2021.

### DISCUSSION

This Resolution sets the annual fee for FY 2022-2023 consistent with the DIVCA Decision. To generate the $1.6 million authorized for the Commission’s Fiscal Year 2022-2023 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. Consistent with Pub. Util. Code § 441, the DIVCA budget of approximately $1.6 million has these three main changes: 1) incorporating the Commission’s budget authority to implement Senate Bill 28[[7]](#footnote-8), 2) including a budget for operating expenses and equipment, and 3) accounting for increases in salaries and benefits.

For calendar year 2021, the time-period used to apportion fees, total reported gross video revenue in California was about $6.48 billion ($6,479,974,111), which is 2.53% ($159.7 million) higher than in 2020 (about $6.32 billion).[[8]](#footnote-9)

The total DIVCA-related budget of $1.6 million amounts to 0.0246915%of the total video revenue in the state,[[9]](#footnote-10) or 0.0246915 cents per dollar of gross video revenue received by each franchise holder.[[10]](#footnote-11)

Since an individual state video franchise holder’s fee will be directly related to its gross video revenue, which has confidential treatment, we cannot disclose the annual fee of any individual state video franchise holder.[[11]](#footnote-12)

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, 2023, are required to pay the annual fee for the full Fiscal Year 2022-2023. State video franchise holders with franchises issued on or before the date of this Resolution must pay their annual fees for Fiscal Year 2022-2023 before
May 2, 2023. 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, 2023, 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 Internet Protocol-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**

The Commission received no public comments.

In compliance with P.U. Code § 311(g), the Commission emailed a notice letter on April 14, 2023, informing the service list of the availability of this resolution for public comments at the Commission’s Web site, [www.cpuc.ca.gov](http://www.cpuc.ca.gov). The notice letter also stated that the final resolution adopted by the Commission will be posted and available at the same website.

**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 2022-2023 is to be calculated based on each state video franchise holder’s pro-rata share of total gross video revenue for the calendar
year 2021 in accordance with D.07-03-014.
3. Total gross video revenue in California for calendar year 2021 was $6,479,974,111 (approximately $6.48 billion), which is 2.53% (or about $159 million) higher than in calendar year 2020 (approximately $6.32 billion).
4. The Commission’s authorized DIVCA-related budget for Fiscal Year 2022-2023
is about $1,600,000.
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 0.0246915% of each provider’s California gross video revenues, or 0.0246915 cents per dollar of gross video revenue received by each franchise holder from California subscribers.
7. Due to the confidentiality of individual state video franchise holders’ video revenues, 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. Budget Request, 8660-092-BCP-2022-GB, authorized the Commission funding to implement Senate Bill 28.
10. The DIVCA-related budget has not changed since 2007 despite changes in the inflation rates, salaries and benefits of staff, and the Commission’s operating expenses and equipment.
11. 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).
12. The Commission received no public comments.

**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 June 19, 2023.
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 19, 2023, whichever is earlier.

This Resolution is effective today. I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on May 18, 2023, the following Commissioners voting favorable thereon:

 /S/RACHEL PETERSON

 Rachel A. Peterson

 Executive Director

 ALICE REYNOLDS

 President

 GENEVIEVE SHIROMA

 DARCIE L. HOUCK

 JOHN REYNOLDS

 KAREN DOUGLAS

 Commissioners

1. California Public Utilities (Cal. Pub. Util.) Code, Division 2.5, The Digital Infrastructure and
 Video Competition Act of 2006 (DIVCA) (Cal. Pub. Util. Code §§ 5800 et seq.). [↑](#footnote-ref-2)
2. *Decision Adopting a General Order and Procedures to Implement the Digital Infrastructure and Video
 Competition Act of 2006*, D. 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). [↑](#footnote-ref-3)
3. Amendments to existing video franchises “reflect changes to the franchise service area.”
(CPUC, General Order 169, VI, C.) [↑](#footnote-ref-4)
4. *See* [Video Franchising (ca.gov)](https://www.cpuc.ca.gov/regulatory-services/licensing/video-franchising) (Last visited on February 6, 2023). [↑](#footnote-ref-5)
5. 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).” [↑](#footnote-ref-6)
6. Decision 07-03-014, *mimeo*, pp. 122-123. [↑](#footnote-ref-7)
7. The CPUC received budgetary authority in the amounts of $888,000 for FY 2022-2023 and $864,000 for the two fiscal years thereafter. *See* Budget Request, 8660-092-BCP-2022-GB, at <https://esd.dof.ca.gov/Documents/bcp/2223/FY2223_ORG8660_BCP5300.pdf> (Last visited on April 3, 2023). *See* also [Bill Text - SB-28 Digital Infrastructure and Video Competition Act of 2006: deployment data. (ca.gov)](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB28) (Last visited on April 3, 2023). [↑](#footnote-ref-8)
8. In 2014, state-wide gross video revenue in California was $6.2 billion. It peaked in 2015 at $6.5 billion and remained at that level until it slightly decreased in 2019 to $6.45 billion and decreased again in 2020 to $6.32 billion. However, during 2021, state-wide gross video revenue increased by 2.53% or $159.7 million to $6.48 billion. [↑](#footnote-ref-9)
9. The computation supporting this is: $0.000246915 x $6,479,974,111 = $1,600,000. [↑](#footnote-ref-10)
10. By way of comparison, for the previous fiscal year, the DIVCA-related budget required a surcharge equal to 0.01503201 cents per dollar. The year before that it was 0.01472882 cents per dollar. [↑](#footnote-ref-11)
11. 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.” [↑](#footnote-ref-12)